

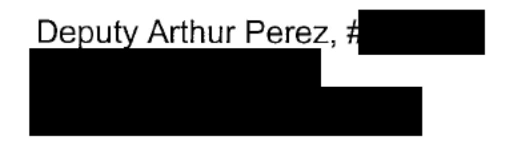
LEROY D. BACA, SHERIFF

County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



December 3, 2005



Deputy Arthur Perez, #[redacted]

Dear Deputy Perez:

On September 15, 2005, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2101944. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. After reviewing the response submitted to support your position, the Department executives have amended the recommended discipline.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of thirty (30) days. However, pursuant to a settlement agreement between you and the Department, fifteen (15) of the thirty (30) days will be held in abeyance for a period of twelve (12) months which will end on October 20, 2006. If you should become the Subject of a founded administrative investigation, with similar violations, and the event occurred within the prescribed twelve (12) month time period, the fifteen (15) days held in abeyance will be imposed. Additionally, you will be subject to further discipline for each and every founded violation of the Department's Manual of Policy and Procedures. All Departmental records will reflect, nevertheless, that you received a thirty (30) day suspension.

The effective dates for the remaining fifteen (15) day suspension are from December 6, 2005 through December 20, 2005.

An investigation under File Number IAB 2101944, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (*specifically as it relates to Manual Sections 5-09/430.00, Use of Force, Reporting and Review*

Procedures); and/or 3-01/040.70, False Statements, on or about October 10, 2003, at the terminus of a vehicle pursuit with Pico Rivera Station units, you used force and/or witnessed the use of force upon Suspect [redacted] and did not immediately report that force to the field sergeant. When advised by Sergeant [redacted] and Lieutenant [redacted] that based on physical evidence and the suspect's statements, they believed that force had been used, you again denied using force. You subsequently met with the other Subject deputies in the station parking lot and only then admitted to using "necessary" force to take the suspect into custody. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about December 10, 2004, during your subject interview for the administrative investigation, you made false and/or misleading and/or self-serving statements and/or conspired with others to concoct a version of events to minimize your individual culpability in this incident regarding the use of force and/or subsequent failure to report the use of force.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Michael A. Ford, Captain
Commander, Operations Safe Streets Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

MAF:KM:tm

c: Advocacy Unit
Sandra Hutchens, Chief, Office of Homeland Security
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Operations Safe Streets Bureau/unit Personnel File

1761551N25A - SH-AD-32A (CLEB 3/98)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

DATE: September 13, 2005

DISPOSITION SHEET

FILE NO. IAB 2101944

FROM: SANDRA HUTCHENS, CHIEF
OFFICE OF HOMELAND SECURITY

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **PEREZ, Arthur, #[redacted]**
Deputy Sheriff
Operation Safe Streets Bureau
Office of Homeland Security

Upon consideration of the facts developed in this investigation, I have determined that Subject Perez should receive a **THIRTY (30) DAY SUSPENSION** for the reasons set forth in the attached documentation. This decision may be reconsidered based on the employee's response.

Sandra Hutchens, Chief

9/13/05
Date

CASE REVIEWED BY:

Paul K. Tanaka, Assistant Sheriff

R. Doyle Campbell, Assistant Sheriff

Date

Date

Larry L. Waldie
Undersheriff

09-13-05
Date

PEREZ, ARTHUR #[redacted]
DEPUTY SHERIFF
OPERATION SAFE STREETS BUREAU
OFFICE OF HOMELAND SECURITY **IV 2101944**

The evidence in this investigation supports the following charges:

That in violation of manual section 3-01/030.10, Obedience to Laws, Regulations and Orders referencing sections; 5-09/430 Use of Force Reporting and Review Procedures; and 3-01/040.70 False Statements; on or about October 10, 2003, the Subject was involved in a vehicle pursuit with Pico Rivera Station units. At the terminus of the pursuit the Subject used force upon the Suspect and did not immediately report that force to the field sergeant. When the Subject was advised by the sergeant and the lieutenant that based on physical evidence and suspect's statements that they believed force was used, the Subject again denied using force. After the Subject met with other Subjects involved in this incident, in the parking lot of the station, the Subject admitted to using necessary force to take the Subject into custody.

That in violation of manual section 3-01/040.75, False Statements During a Departmental Investigation; during the subsequent administrative investigation, the Subject made false statements to investigators. The Subject conspired with the others to concoct a version of events to minimize their culpability.

The evidence in this investigation does not support the following charges:

Unreasonable Force; 3-01/025.10; The Subject indicates that he used necessary force to affect the arrest of the suspect.

SUMMARY: On October 10, 2003, the Subject was involved in a vehicle pursuit along with his partner, also a Subject of this investigation. At the terminus of the pursuit the suspect ran a short distance where he was taken into custody. The Subject was involved in the physical arrest of the suspect along with three other Subjects. Initially, the Subject told the field sergeant, and his team sergeant, that he did not use force to take the suspect into custody. The Subject said he did not report the force he used, or witnessed. During a debriefing at the station, the Subject, along with other Subjects in this investigation, were confronted with the fact that the lieutenant and sergeant believed that force was in fact used upon the suspect. The Subject did not report the force he used or witnessed to either supervisor. After a discussion amongst the other Subject's outside of the station, the Subject reported his force to the field sergeant. The Subject indicated the suspect was resisting arrest and told the sergeant he punched the suspect in the right side "a couple of times" until the suspect ceased resistance and was handcuffed by a total of four deputies. The Subject also reported the force used by one of the other Subjects involved in the arrest.

During the subsequent administrative investigation, the Subject made self-serving

statements and admitted to making false statements to a supervisor, advising her he did not use force when in actuality he did. The Subject also made false statements during the internal investigation by stating he simply had a "lapse of judgement" in failing to report force as required. The Subject, and the other Subjects in this investigation, conspired to concoct a version of events which minimized their individual culpability in this incident. Their statements as to the non-reporting of force are virtually the same and amount to a scripted version of the critical events surrounding the use of force and timing of same.

DISCIPLINE ASSESSMENT

Review of Applicable "Guidelines For Discipline" Sections

The Department Guidelines for Discipline lists the following analogous misconduct with associated disciplinary penalties:

Failure to report force	5 - 10 Days Suspension
Untruthful statements to a supervisor	15 - 25 Days Suspension
Untruthful statements during internal investigations	15 - 25 Days Suspension
General Behavior	W.R. to Discharge

ASSESSMENT OF MITIGATING AND AGGRAVATING FACTORS

Severity of Infraction

The Subject used force during an arrest and willfully failed to report it pursuant to policy. When confronted in a group setting, with other Subjects, the Subject, again failed to report the use of force, a serious a violation.

Mitigating Factors

After being confronted with the ramifications of failing to report his use of force, the Subject admitted to using force and prepared reports detailing his actions.

Aggravating Factor

The Subject chose to violate policy to avoid scrutiny and then proceeded to conspire with other Subjects to develop a version of events more favorable to the group of Subjects involved to insulate specific Subjects from more serious scrutiny.

Intent, Truthfulness and Acceptance of Responsibility

The Subject had several opportunities to report his use of force and only did so when confronted with the seriousness of the actions. The Subject ultimately reported his use of force and prepared reports detailing it. The Subject accepts responsibility for those actions. The Subject's statements to Department investigators were self-serving and sought to minimize exposure to censure. The Subject conspired with others to concoct a version of events to minimize their culpability.

The level of deceit exhibited by the Subject is a serious a violation.

Degree of Culpability:

The Subject was solely responsible for his actions. Collectively, all the subjects involved in this incident conspired to downgrade certain aspects of the incident to protect themselves from disciplinary action.

Past Performance and Disciplinary History:

The Subject has been a Deputy Sheriff for 10 years. The Subject's last two performance evaluations were both very good. The Subject's unit level personnel file has several individual and group commendations. In September of 2004, the Subject was [redacted]

Disposition
Based upon the foregoing assessment of mitigating and aggravating factors, the following is the penalty to be assessed.

_____ Discharge
_____ Reduction in rank
_30_ Suspension with loss of pay
_____ Written Reprimand
_____ No discipline recommended

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE NARRATIVE
IV 2101944
FO 2143164
URN # 403-00076-2003-054
URN # 603-16486-1420-091

Subjects: CALLAHAN, Eric, DEPUTY, #[redacted]
[redacted], DEPUTY, #[redacted]
[redacted], DEPUTY, #[redacted]
[redacted], SERGEANT, #[redacted]
PICO RIVERA STATION
Field Operations Region III

MORRIS, Daniel, DEPUTY, #[redacted]
PEREZ, Arthur, DEPUTY, #[redacted]
SAFE STREETS BUREAU
Office of Homeland Security

[redacted], LIEUTENANT, #[redacted]
[redacted](Formally Pico Rivera Station)
Field Operations Region III

Date: On or about October 10, 2003
(District Attorney's rejection of the criminal case-
September 22, 2004)

Location: [redacted]Rushmore Street
Pico Rivera &
Pico Rivera Station

Investigator: Sergeant William Hines

Case Synopsis:

This case pertains to allegations that Deputies [redacted] Eric Callahan, Daniel Morris, Arthur Perez and [redacted] used unreasonable force during the arrest of Suspect [redacted] It is further alleged that Deputy [redacted] struck the suspect with a flashlight while the suspect was handcuffed. Deputies Callahan, Morris and Perez initially reported to their immediate supervisor that the suspect voluntarily submitted to being arrested without offering any resistance. Deputies [redacted] and [redacted] did not immediately report any force to their supervisor. The deputies reported their force approximately two hours later at the station, after they were advised that the suspect was alleging force was used and had sustained visible injuries. Additionally, this case pertains to allegations that the Field Sergeant, Sergeant [redacted] and the Watch Commander, Lieutenant [redacted] at the time of the incident, failed to perform their duties as supervisors.

This investigation is based on information obtained during the interviews of the suspect, involved deputies and witnesses at the scene, various reports and documentation, and the Internal Criminal Investigations Bureau's case book which is included in this case file. The Incident Report and all Supplemental Reports are included in the Internal Criminal Investigations Bureau's case book. **Refer to Exhibit A-Internal Criminal Investigation Bureau's Case Book**

Investigation Narrative:

On October 11, 2003, Sergeant Elier Morejon and I responded to Pico Rivera Station regarding an immediate Internal Affairs Bureau investigation regarding allegations of unreported force and possible criminal allegations of Assault Under Color of Authority.

During the initial investigation, Suspect [redacted] was interviewed at 1714 hours. The interview was audio tape recorded and the following is a summary of that interview:

Mr. [redacted] said that he was pursued by deputies the prior night (October 10, 2003). At the end of the vehicle pursuit, [redacted] exited his car and ran down the street a distance of about three houses. He ended up between the sides of two houses and tried to jump a fence. He could not get over the fence so he turned around and saw deputies running toward him. [redacted] said he went down on his knees, laid down on the ground and put his hands behind his head, while interlacing his fingers. His feet were straight behind him. [redacted] said he did this because he felt it would be better to just lay down on the ground.

Mr. [redacted] said at that point, the first deputy arrived and grabbed [redacted] hands. [redacted] said he then felt "blows from every direction" to his ribs and kicks to his face/head area. [redacted] said he kept his

face straight down in the grass. He then felt a shoe placed forcefully on his neck. He continued to feel "blows" to his body from his waist up. He described the "blows" as kicks and punches. [redacted] said he was kicked on the right side of his face near his eye. Although there was no sign of injury, [redacted] said the area was sore to the touch. [redacted] estimated that he was kicked and/or punched eight to fifteen times. After about one minute, [redacted] was handcuffed. The deputies then got him to his feet. As he was stood up, two deputies moved to the side and another deputy came forward and struck him with the "butt end" of a flashlight about three times in his abdomen. [redacted] described the strike as a "jab." [redacted] said that he was struck with the flashlight while he was handcuffed. The deputy that struck him said something to him, but [redacted] could not recall what was said.

The deputies then took him to the station. He said he was at the station for about three hours before he was taken to a hospital and treated by a doctor.

When asked if the deputies ever said anything to him while he was on the ground, [redacted] said the deputies made comments such as, "You want to run fucker? You want to run? We got you now!" [redacted] said he did not say anything to the deputies and was never given any orders by the deputies. [redacted] said he never struggled or fought with the deputies, nor did he ever "lunge" at a deputy. He added that he did not tense his arms in an effort to prevent being handcuffed. [redacted] also said that he did not make any movements, nor did he attempt to get away from the deputies or try to "head-butt" a deputy.

Mr. [redacted] estimated between four and seven deputies were present when he was on the ground. He said that he could not identify the first deputy who reached him because he was down on the ground. [redacted] said however, that he could describe the deputy who hit him with the flashlight. He described this deputy as a White male, approximately six feet tall with "blondish-brown hair." The deputy was wearing a uniform as opposed to some of the others who were wearing green shirts. [redacted] recalled that two deputies were wearing the green polo shirts.

Investigators saw three red circles on [redacted] upper abdomen area and took photographs. [redacted] indicated that his neck, back, sides and abdomen were sore at the time of the interview. **Exhibit A, Pages 58 & 59-Photograph's of [redacted]**

On October 11, 2003, at 1745 hours, Sergeant Morejon and I interviewed **Sergeant [redacted]**. The interview was audio tape recorded and the following is a summary of her interview:

Sergeant [redacted] was the Field Sergeant at the time of the incident (October 10, 2003) and she was assigned to Unit 150S. She started her shift at 2200 hours. During her shift, deputies were involved in a pursuit. At the termination of the pursuit, Sergeant [redacted] said she was the fourth and last patrol unit in the pursuit. The pursuit ended at Pico Vista Road and Rushmore Street in Pico Rivera. She

heard over the radio that Mr. [redacted] had been involved in a traffic collision and had run westbound on Rushmore Street. She stopped her unit at the intersection of Pico Vista Road and Rushmore Street. When she got out of her patrol car, she looked down the street and saw the deputies in a foot pursuit with Mr. [redacted] but she could not see Mr. [redacted] from her position. She "cleared" Mr. [redacted] car as she walked by it to ensure that no one else was in the car. She then headed down the street toward the termination of the foot pursuit. Sergeant [redacted] estimated that she was only about half-way down the street, when she saw the deputies walking the handcuffed suspect back toward her and the other radio cars. She did not witness the arrest and/or handcuffing of Mr. [redacted]

At this point, Sergeant [redacted] went to all of the involved deputies--Deputies Callahan, Morris, Perez, [redacted] and [redacted]--and asked them if they were all right. She added that she checked them over to ensure that they were all physically okay. All the involved deputies told her that they were "fine." She then asked the deputies "who caught" Mr. [redacted] Deputy Eric Callahan (Unit 151K) told her that he, along with Deputy Daniel Morris (Gang Enforcement Team Unit W515), had caught up to Mr. [redacted] when Mr. [redacted] had attempted to go over a fence between two houses. Sergeant [redacted] said she then asked Deputy Callahan if force was used on Mr. [redacted]. Deputy Callahan told her that they were behind Mr. [redacted] and that Mr. [redacted] ran into the fence. Mr. [redacted] then tried to climb over the fence, but was unable to make it over the fence, so Mr. [redacted] put his hands up on his head and went down to his knees. The deputies then grabbed Mr. [redacted] and they went down onto the grass and handcuffed Mr. [redacted].

Sergeant [redacted] said that none of the deputies told her that Mr. [redacted] tried to "head-butt" any of them. None of the deputies told her that they struck Mr. [redacted] on his back or sides with their fists. None of the deputies mentioned "strikes with a flashlight" or "kicks."

At this point, it was Sergeant [redacted] understanding that no force was used during the arrest of Mr. [redacted] She did not feel that Deputy Callahan reported force to her. She felt he was just telling her about the arrest. She first thought that the deputies possibly had used a "take down" to control Mr. [redacted]; however, Deputy Callahan told her that the grass was wet and that they all "slipped" there and fell on the ground. She walked over to the area of the arrest and did see that the grass was wet and that it was reasonable that the deputies and suspect might have slipped to the ground.

Sergeant [redacted] said that she did not talk specifically to any of the other deputies at this time and ask them if they used force. The reason that she did not specifically talk to any of the other deputies at this point was because she did not feel that force had been used, since Deputy Callahan did not report any to her and the fact that (regarding the whole scene), in her words, "We were just in a mess. There were people everywhere." Eventually, while still at the scene, she did talk with Deputy Daniel Morris and his partner, Deputy Mark Perez. She said she talked to them together. They told her essentially the same as what Deputy Callahan had told her: that Mr. [redacted] had put his hands up and

they all kind of fell to the ground because of the wet grass. Mr. [redacted] was then handcuffed without any further incident.

At this time, Sergeant [redacted] did not talk to any other deputies at the scene because she felt that only Deputies Callahan and Morris were involved in the handcuffing and arrest of Mr. [redacted]. She had a brief conversation with Deputy [redacted] regarding the pursuit, but not the use of force, and Deputy [redacted] did not tell her that he used force during the arrest. Sergeant [redacted] added that there were other deputies at the scene of the arrest, but she did not recall who they were. No deputies reported using force or witnessing force to her at the scene.

At one point while still at the scene and while Mr. [redacted] was handcuffed and sitting in the backseat of a radio car, Sergeant [redacted] looked in and asked Mr. [redacted] how he was doing. She did not notice any blood on his face, nor any other injuries. She saw that Mr. [redacted] was "sweating" and had grass on him. Sergeant [redacted] added that Sergeant Robert Lawrence, of Safe Streets Bureau, also arrived at the scene earlier and said he had seen a small amount of blood around Mr. [redacted] nose. Sergeant [redacted] re-emphasized that she did not see any blood on Mr [redacted] face. Sergeant [redacted] later looked inside Mr. [redacted] car and noticed a very small drop of blood, about the size of "the top of a pen" on the steering wheel.

When asked if she specifically talked with Mr. [redacted] Sergeant [redacted] said that she asked Mr. [redacted] if he was okay and he told her that he was. Sergeant [redacted] said she thought Mr. [redacted] did tell her that he had been hit; however, he did not elaborate because he was "jacked up," or "wound up" from running from the deputies. She did not question him at this point.

Sergeant [redacted] said that at some point while still at the scene, the Watch Commander, Lieutenant [redacted], requested Sergeant [redacted] to call him. She telephoned Lieutenant [redacted] and she advised him what the deputies had told her regarding the arrest. There was no discussion about any use of force at that time. Sergeant [redacted] reiterated that she did not believe force was used and she had no intention of completing a force package.

Eventually the scene was cleared and Sergeant [redacted] was advised by Lieutenant [redacted] to return to the station in order to debrief the pursuit. She arrived at the station a short time later and she, the involved deputies, Lieutenant [redacted] and the Watch Sergeant, Sergeant Dinah Grote, went into the briefing room to debrief the pursuit. Sergeant [redacted] explained that the discussion was led by Lieutenant [redacted] and focused on the reason for the continuation of the pursuit. (During this debriefing, Mr. [redacted] was in the jail and had not been taken to the hospital at this point.)

Sergeant [redacted] said that at the conclusion of the debriefing, Lieutenant [redacted] asked the deputies if any force was used during the arrest of Mr. [redacted] Sergeant [redacted] said that after Lieutenant

[redacted] asked this question, she, along with Lieutenant [redacted] and Sergeant Grote, looked around the briefing room at the deputies. The deputies looked down to the floor and avoided any eye contact with her, Lieutenant [redacted] or Sergeant Grote. Additionally, the deputies did not say anything or report any use of force. Lieutenant [redacted] and Sergeants [redacted] and Grote walked out of the briefing room at this time. Lieutenant [redacted] started toward the jail. Sergeant [redacted] asked him if he was going to interview Suspect [redacted] and he told her that he was. Sergeant [redacted] accompanied Lieutenant [redacted] to the jail and Sergeant Grote resumed her duties as the Watch Sergeant. All of the involved deputies remained in the briefing room.

Sergeant [redacted] said that once she and Lieutenant [redacted] entered the booking area, they saw Suspect [redacted] using the telephone. Lieutenant [redacted] asked [redacted] to hang up the telephone. They had a brief conversation regarding the pursuit and why [redacted] ran from the deputies. Suspect [redacted] then said that he had been "punched and kicked" on his face. [redacted] was showing his face, but Sergeant [redacted] said that she could not see any injuries to [redacted] face. Sergeant [redacted] vaguely recalled that [redacted] also said that he had been hit in the chest area and Lieutenant [redacted] told [redacted] to take his shirt off. Once [redacted] took his shirt off, both Lieutenant [redacted] and Sergeant [redacted] could see "a couple of marks, kind of in a circular fashion, on his chest." Sergeant [redacted] said that she could not recall if Mr. [redacted] told them how he received the marks on his chest, nor did she recall if Lieutenant [redacted] asked [redacted] how he received the marks on his chest. The conversation between Lieutenant [redacted] and Mr. [redacted] was not audio or video tape recorded.

Sergeant [redacted] said that she and Lieutenant [redacted] stepped out of the booking area and had a short conversation regarding the marks on Suspect [redacted] chest area. Lieutenant [redacted] told Sergeant [redacted] that he thought that the marks on Mr. [redacted] chest appeared to have possibly been caused by a flashlight. Sergeant [redacted] agreed with Lieutenant [redacted] At this point, according to Sergeant [redacted] Lieutenant [redacted] told her, "I want you to go back to those guys and tell them that you see some visible injuries on him ([redacted]) and you want to know how those happened and if they have to report any force."

Sergeant [redacted] estimated that it took about 15 minutes to leave the briefing room and talk to Mr. [redacted].

Sergeant [redacted] walked back to the briefing room where the deputies were still seated. She told them that she had seen two semi-circle red marks on Mr. [redacted] chest area and that the marks appeared to be caused by a "flashlight jab." She also told them what the lieutenant's directions were. She also told them that Mr. [redacted] had said that he had been "punched and kicked." She was not sure if she told the deputies that Mr. [redacted] said that he had been hit by a flashlight. She told them, "You need to think about whatever you need to tell me and come back to me." The deputies said, "Okay," and Sergeant [redacted] walked out of the briefing room. At this time the deputies still did not advise Sergeant [redacted] that they had used any force during the arrest of Mr. [redacted]

Sergeant [redacted] said that approximately 35 minutes later, one of the deputies, either Deputy Callahan or Deputy [redacted], came to her and said that all of the involved deputies wanted to talk to her.

> **IAB Note:** Sergeant [redacted] was asked if the deputies remained in the briefing room for the 35 minutes and she said she thought the deputies actually went outside during that time. She vaguely recalled that the deputies told her that they were going to go outside; however, she did not see them go outside.

Sergeant [redacted] then met with Deputies Callahan, [redacted], Perez, Morris and [redacted] in the briefing room. She asked the deputies to tell her what happened during the arrest of Suspect [redacted] Deputy [redacted] told Sergeant [redacted] that he had "jabbed the guy with a flashlight." According to Sergeant [redacted], Deputy [redacted] said something to the effect, "Those marks are probably from me because I jabbed the guy with my flashlight." Sergeant [redacted] could not remember if she specifically asked Deputy [redacted] at this time why he struck Mr. [redacted] with a flashlight. She vaguely recalled that she asked him at some point, but did not remember the sequence of when she did ask. She also did not recall what justification Deputy [redacted] had for striking Mr. [redacted] with a flashlight.

Sergeant [redacted] then told all of the involved deputies that she wanted the complete details of each deputy's actions during the arrest of Mr. [redacted] According to Sergeant [redacted] the deputies told her the following: Mr. [redacted] had put his hands up and they went to handcuff him, but he became "squirrelly." Mr. [redacted] moved around and would not submit to being handcuffed. Mr. [redacted] was on the ground or possibly upright in a kneeling position and the deputies could not get control of Mr. [redacted] arms. At some point, since they could not get control of Mr. [redacted] hands/arms, Deputy [redacted] jabbed Mr. [redacted] with his flashlight and the other deputies punched Mr. [redacted] in the ribs in an effort to get Mr. [redacted] hands controlled.

> **IAB Note:** During this report of force, Sergeant [redacted] said that a "head-butt" was not reported to her.

She then asked each deputy to describe each of their particular actions and, as they did, she made notations in her notebook as to what each deputy's actions were.

Sergeant [redacted] was specifically asked if she had asked the deputies why they had not reported force to her in the first place and she said that she had not.

After Sergeant [redacted] gathered this information from the deputies regarding the force, she returned to Lieutenant [redacted] and advised him of what she had been told by the deputies. Lieutenant [redacted] acknowledged this information and Sergeant [redacted] proceeded with a force investigation. Sergeant [redacted] went back to the jail and now interviewed Suspect [redacted] on video tape. Mr. [redacted] reiterated

that he was punched and kicked by the deputies. Mr. [redacted] denied struggling with the deputies. Mr. [redacted] also alleged that while he was handcuffed, a deputy struck him with a flashlight.

> **IAB Note:** The video tape of Mr. [redacted] interview was submitted to ICIB investigators, and is part of their case file.

Sergeant [redacted] said that after interviewing Mr. [redacted] and obtaining this new information that Mr. [redacted] alleged that he was struck while handcuffed, she went to back again to Lieutenant [redacted] and told him that there was possibly a "discrepancy" as to when Mr. [redacted] was struck with a flashlight and that he was alleging that he was struck while handcuffed. At this point, Lieutenant [redacted] directed Sergeant [redacted] to go back and speak to Deputy [redacted] about the possible "discrepancy" of when Mr. [redacted] was struck with a flashlight.

Sergeant [redacted] located Deputy [redacted] in the hallway and told him that she needed to talk to him. Deputy [redacted] asked her if they could "step outside." They both walked out the back door of the station and Sergeant [redacted] told Deputy [redacted] what Mr. [redacted] had alleged. According to Sergeant [redacted], Deputy [redacted] thought "about it" for a moment, then he looked at Sergeant [redacted] and said, "Yeah, I could have--after he was handcuffed." He then admitted that he did in fact hit Mr. [redacted] after he was handcuffed. Deputy [redacted] then asked Sergeant [redacted] what he should do and Sergeant [redacted] told him that she could not tell him what he should do. She then told Deputy [redacted] that she had to tell Lieutenant [redacted] what he ([redacted]) had told her. Deputy [redacted] then told Sergeant [redacted] that he wanted to talk to the "guys" and then talk to Lieutenant [redacted]. Sergeant [redacted] then walked back into the station and told Lieutenant [redacted] what Deputy [redacted] had told her, and that he ([redacted]) wanted to talk to him. Lieutenant [redacted] acknowledged this information and told Sergeant [redacted] that he was going to make his notifications after he spoke to Deputy [redacted]. According to Sergeant [redacted], Deputy [redacted] later talked to Lieutenant [redacted].

When specifically asked, Sergeant [redacted] agreed that there was ample opportunity for all the deputies to report force to her at the scene and later during the debriefing.

Mr. [redacted] was ultimately transported to Beverly Hospital on October 11, 2003 at 0410 hours, where he was treated and approved for booking. **Refer to Exhibit B-[redacted] Approval for Booking, Exhibit C-[redacted] Criminal History**

Sergeant [redacted] did not read any of the involved deputies' reports. She added that she did a canvas of the area for witness, but did not locate any.

> **IAB Note:** This initial interview with Sergeant [redacted] was later transcribed and provided to her when she was made a Subject of this investigation. The transcribed interview is included in the case under Witness Statements Section.

On October 11, 2003, at 1956 hours, Sergeant Morejon and I interviewed **Lieutenant [redacted]** The interview was audio tape recorded and the following is a summary of his interview:

Lieutenant [redacted] was the Watch Commander at Pico Rivera Station at the time of the incident (October 10, 2003). During his shift, deputies were involved in a pursuit. Lieutenant [redacted] was at the front desk monitoring the pursuit when the pursuit terminated at about 2334 hours. A foot pursuit ensued after the vehicle pursuit. Mr. [redacted] was ultimately apprehended after a short distance. Lieutenant [redacted] immediately sent a Mobile Digital Terminal (MDT) message to Sergeant [redacted] asking her to call him as soon as possible.

Lieutenant [redacted] said Sergeant [redacted] telephoned him from the scene a short time later and gave him "a basic run down" and told him that there was no force used. Sergeant [redacted] further advised that all the deputies involved were not injured. At some later point, Lieutenant [redacted] told Sergeant [redacted] to gather up the involved deputies and have them come to the station to debrief the pursuit. About 30 minutes later, Deputies Callahan, [redacted], Perez, Morris and [redacted] came to the station and the pursuit was debriefed in the briefing room.

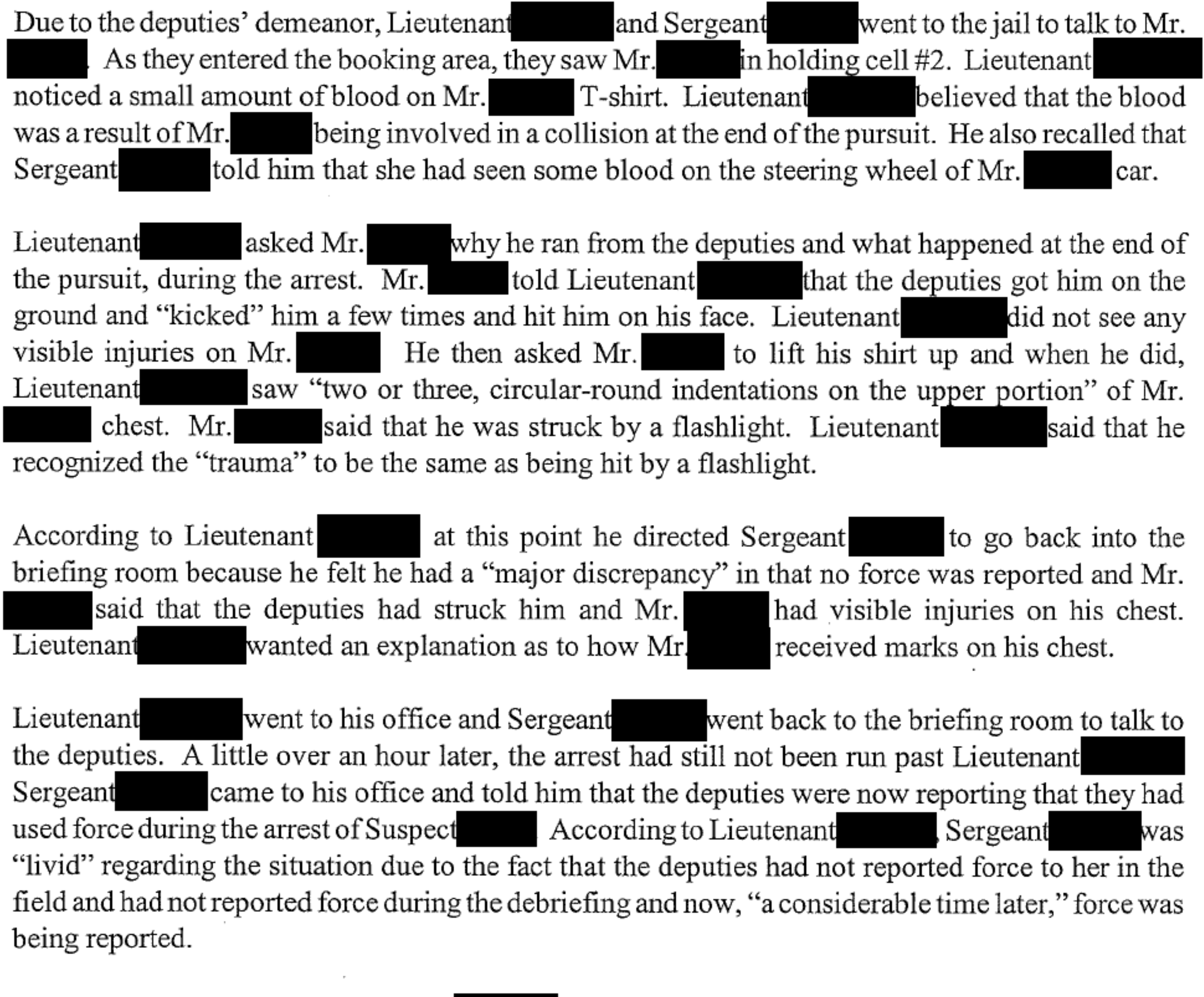
> **IAB Note:** According to Lieutenant [redacted] the arrest was not run by the Watch Commander, nor the Watch Sergeant at this point. Lieutenant [redacted] explained that he wanted to first discuss the conflicts that he felt had arisen during the pursuit and to tell the deputies why he had cancelled certain units from the pursuit.

According to Lieutenant [redacted], at some point near the end of the debriefing, he "indicated" to the deputies, "We need to do the right things for the right reason." He also told them, "If force was used they needed to report it and they needed to report it properly to Sergeant [redacted]" Lieutenant [redacted] went on to explain that he made this comment to the deputies because it has been his experience in the past that deputies generally use force at the end of pursuits. He said, "Generally at the terminus of a pursuit, generally force is used and I wanted to make sure that I made that point, that if force was used that it needs to be reported and properly documented."

Lieutenant [redacted] re-emphasized to us that no force had been discussed or reported at this point.

After making this comment to the deputies about the need to report force, Lieutenant [redacted] looked at the involved deputies and the deputies' heads went down and the deputies would not make eye-contact with him. Lieutenant [redacted] said that this action by the deputies made him feel "leery or suspicious," and he felt at this point, he needed to go and talk to Mr. [redacted] He added that he had an "uneasy feeling" about the deputies' demeanor after he made this comment to them. Still, at this point, none of the deputies had reported using any force during the arrest of Mr. [redacted]

IAB Note: Additionally at this point, Lieutenant [redacted] acknowledged that the deputies had not run the arrest by him. Lieutenant [redacted] explained the reason for not having the arrest run past him at this point, saying, "[I was] more concerned about the focus of the debriefing at this point--to straighten out everything and make sure that--because we had a vehicle pursuit, suspect intentionally drives into our deputy, a 245, the termination and then a crash at the end of a pursuit, the foot pursuit, a person in custody, I wanted to make sure that everybody was on the right page, everybody who was going to write the complaint report, that supplemental reports are going to be required from everybody--from policy stand point, that we documented everything and we got everything aired out right then and there."



Due to the deputies' demeanor, Lieutenant [redacted] and Sergeant [redacted] went to the jail to talk to Mr. [redacted]. As they entered the booking area, they saw Mr. [redacted] in holding cell #2. Lieutenant [redacted] noticed a small amount of blood on Mr. [redacted] T-shirt. Lieutenant [redacted] believed that the blood was a result of Mr. [redacted] being involved in a collision at the end of the pursuit. He also recalled that Sergeant [redacted] told him that she had seen some blood on the steering wheel of Mr. [redacted] car.

Lieutenant [redacted] asked Mr. [redacted] why he ran from the deputies and what happened at the end of the pursuit, during the arrest. Mr. [redacted] told Lieutenant [redacted] that the deputies got him on the ground and "kicked" him a few times and hit him on his face. Lieutenant [redacted] did not see any visible injuries on Mr. [redacted] He then asked Mr. [redacted] to lift his shirt up and when he did, Lieutenant [redacted] saw "two or three, circular-round indentations on the upper portion" of Mr. [redacted] chest. Mr. [redacted] said that he was struck by a flashlight. Lieutenant [redacted] said that he recognized the "trauma" to be the same as being hit by a flashlight.

According to Lieutenant [redacted] at this point he directed Sergeant [redacted] to go back into the briefing room because he felt he had a "major discrepancy" in that no force was reported and Mr. [redacted] said that the deputies had struck him and Mr. [redacted] had visible injuries on his chest. Lieutenant [redacted] wanted an explanation as to how Mr. [redacted] received marks on his chest.

Lieutenant [redacted] went to his office and Sergeant [redacted] went back to the briefing room to talk to the deputies. A little over an hour later, the arrest had still not been run past Lieutenant [redacted] Sergeant [redacted] came to his office and told him that the deputies were now reporting that they had used force during the arrest of Suspect [redacted] According to Lieutenant [redacted], Sergeant [redacted] was "livid" regarding the situation due to the fact that the deputies had not reported force to her in the field and had not reported force during the debriefing and now, "a considerable time later," force was being reported.

IAB Note: Lieutenant [redacted] had already notified Captain Rodriguez of the pursuit and told him that force was not used.

Lieutenant [redacted] said that Sergeant [redacted] then proceeded to tell him the force each deputy used during the incident. Lieutenant [redacted] recalled that Sergeant [redacted] basically told him that the deputies reported "punches" only. He then directed Sergeant [redacted] to go back and establish what caused the red marks on Mr. [redacted] chest. Sergeant [redacted] then left and at some point later, she returned and told Lieutenant [redacted] that they had a "new problem." According to Lieutenant [redacted] Mr. [redacted] has now told Sergeant [redacted] that he has been hit by a deputy with a flashlight, after being handcuffed. Lieutenant [redacted] said at this point, "The red flags really start going up in my mind." Lieutenant [redacted] said that when he had earlier talked to Mr. [redacted] Mr. [redacted] had not told him that he had been hit by a flashlight after being handcuffed. He added that Mr. [redacted] only said that he was hit and kicked several times. Mr. [redacted] did not mention that he had been hit by a flashlight.

> **IAB Note:** Earlier in Lieutenant [redacted] interview he told us that Mr. [redacted] said he was hit by a flashlight, but not while handcuffed (refer to earlier statements above).

After hearing about this "new problem," that Mr [redacted] alleged that he was hit by a flashlight while handcuffed, Lieutenant [redacted] directed Sergeant [redacted] to talk to the involved deputies again about this "discrepancy."

> **IAB Note:** According to Lieutenant [redacted] he did not recall hearing that flashlight strikes were mentioned to him during Sergeant [redacted] first explanation of the force used by deputies. He recalled that it was only after he directed her to go back to the deputies and determine what caused the red marks on Mr. [redacted] chest area that it was discovered that a flashlight was used and she told him that they had a "new problem."

Lieutenant [redacted] said that a short time later, Deputy [redacted] came to his office and said something to the effect of, "Lieutenant, I need to talk to you." Lieutenant [redacted] then invited Deputy [redacted] in the office and closed the door. Lieutenant [redacted] said he felt at this point that he was dealing with an "unreported use of force" and the use of a "flashlight" on a suspect "while handcuffed." Lieutenant [redacted] further explained that he felt that if Deputy [redacted] said "why" he had used force and struck a handcuffed suspect, that it could "infringe upon" Deputy [redacted] "rights as a subject or a suspect."

With that in mind, Lieutenant [redacted] told Deputy [redacted] something to the effect of, "If you are coming in here to fall on the sword and admit to striking a handcuffed suspect, I recommend that you immediately go and contact your union representative and decide if you are going to explain the use of force or choose to have a representative with you prior to any discussion." Lieutenant [redacted]

gave Deputy [redacted] thirty minutes to contact his representative. Nearly thirty minutes later, Deputy [redacted] returned to Lieutenant [redacted] office and said that he wanted to talk, but he was unable to contact his representative. Lieutenant [redacted] again stopped Deputy [redacted] and told him to go back and first talk to his representative before talking to him ([redacted]). About fifteen minutes later, Deputy [redacted] returned to Lieutenant [redacted] office and told [redacted] that he had decided to "exercise his right" and not talk about the incident without a representative. At this point, Lieutenant [redacted] directed Deputy [redacted] to write a report regarding his use of force.

According to Lieutenant [redacted] during this entire incident, no one reported force, nor did he approve the arrest of Suspect [redacted]. Lieutenant [redacted] said that he did not recall signing the Probable Cause Declaration (PCD) form related to [redacted] arrest. He added, "We were more interested in getting our facts straight in this investigation than properly documenting it, versus just the arrest."

Lieutenant [redacted] had learned at some point during this incident that a local television news channel had possession of a video tape of the pursuit. He later obtained a copy of the video and it was ultimately given to ICIB Sergeants Enrique Garza and Ron Schram.

> **IAB Note:** A copy of the news footage video is included in the case file as **Exhibit D**.

Lieutenant [redacted] made notifications to Captain Juan Rodriguez and Lieutenant Greg Johnson from Internal Affairs Bureau. He also notified Traffic Services Detail.

At the conclusion of his interview, Lieutenant [redacted] was asked if he felt the involved deputies had enough time to report their use of force and he replied, "Absolutely."

Lieutenant [redacted] said he had no knowledge of the involved deputies going outside of the station for approximately 30 minutes to discuss this incident after Sergeant [redacted] first spoke with them.

On October 11, 2003, at about 2100 hours, investigators went to the neighborhood near Pico Vista and Rushmore Street to conduct a canvas for possible witnesses to this incident. Each resident interviewed was audio tape recorded and the following are summaries of those interviews:

[redacted], MH/51, was interviewed at his home. Mr. [redacted] said he and his [redacted], [redacted] were inside their home at the time of the incident. They saw people on the street and several police cars near the intersection. They did not witness the arrest of Mr. [redacted].

[redacted], MH/25, said he was driving home at the time of the incident. As he drove down his street, he saw the deputies and Mr. [redacted] walking toward the patrol cars. He did not see any struggle between the deputies and Mr. [redacted]

[redacted], MH/39, said he was home during the time of the incident. Mr. [redacted] said he saw part of the pursuit and Mr. [redacted] car collide into his neighbor's yard. Mr. [redacted] then saw Mr. [redacted] run down the street and officers chased Mr. [redacted]. Mr. [redacted] said he did not see Mr. [redacted] arrested or handcuffed. He later saw the officers escort Mr. [redacted] back to their patrol cars.

Based on the information Sergeant Morejon and I gathered, it became apparent there was an allegation that Deputies [redacted], Callahan, Morris [redacted] and Perez committed an Assault Under the Color of Authority upon [redacted] in violation of Penal Code Section 149. I briefed Internal Criminal Investigations Bureau Lieutenant Rod Kusch by telephone; Lieutenant Kusch said his bureau would assume investigative responsibilities. Sergeants Enrique Garza and Ron Schram arrived at approximately 2015 hours on October 11, 2003, and were briefed on the investigation, and took charge of it. I provided them with the original reports related to this investigation, the KCBS video tape of the pursuit, and 35 mm film which contained photographs of [redacted] and the terminus of the pursuit and foot pursuit.

On October 11, 2003, at approximately 2203 hours, Sergeants Garza and Schram interviewed **Deputy** [redacted] in the Captain's office at Pico Rivera Station. Sergeant Garza advised Deputy [redacted] of the nature of their criminal investigation and that he, Deputy [redacted], was a suspect in the investigation. Sergeant Schram asked Deputy [redacted] if wanted to make a voluntary statement regarding the investigation and he invoked his right to counsel, declining to speak. The interview was immediately terminated.

Continuing their investigation, Sergeants Garza and Schram interviewed **Deputy** [redacted] at 2228 hours. Sergeant Schram advised Deputy [redacted] that he was a suspect in a criminal investigation of Assault Under the Color of Authority. Sergeant Schram asked him if he wanted to make a voluntary statement and [redacted] said, "No." They immediately terminated the interview.

At 2255 hours, Sergeants Garza and Schram interviewed Sergeant **Robert Lawrence** in the Captain's office at Pico Rivera Station. Sergeant Lawrence is assigned to Safe Streets Bureau's Pico Rivera/Norwalk Gang Enforcement Team. The interview was audio tape recorded and the following is a summary of his interview:

Sergeant Lawrence confirmed that on October 10, 2003, he responded to the terminus of a vehicle pursuit on Rushmore Street in Pico Rivera, as two of his team members had been involved in the

vehicle pursuit. Sergeant Lawrence asked Deputies Mark Perez and Daniel Morris if any force had been used on the suspect. Deputies Perez and Morris both replied, "No."

Sergeant Lawrence told Sergeant [redacted], the Pico Rivera Station field sergeant, that Deputies Perez and Morris did not use any force. Sergeant Lawrence noticed Mr. [redacted] had a bloody nose and he reported this to Sergeant [redacted]. He said Sergeant [redacted] conducted an investigation at the scene and noticed blood on the steering wheel of the stolen vehicle, which was later confirmed to be the source of Mr. [redacted] bloody nose.

Sergeant Lawrence was called to Norwalk Station and left Pico Rivera. Sergeant Lawrence returned to Pico Rivera Station approximately one hour later. Sergeant Lawrence spoke to Deputies Perez and Morris in the parking lot at the back of the station. He asked Deputies Perez and Morris if they had any questions. Deputies Perez and Morris made no comments relating to force. Sergeant Lawrence saw three to four other deputies gathered in a "huddle" at the rear of the station.

Sergeant Lawrence recalled that he was on his way home after work when he received a cellular telephone call from Deputy Perez. He guessed the time was approximately 0100 hours. Deputy Perez told Sergeant Lawrence that they (Deputies Perez and Morris) in fact had used force on Mr. [redacted]. Sergeant Lawrence did not speak with Deputy Morris regarding his use of force. Sergeant Lawrence did not ask detailed questions regarding Deputies Perez' and Morris' use of force. Deputy Perez told Sergeant Lawrence that they (Perez and Morris) were going to write Supplemental Reports regarding their involvement and use of force. Sergeant Lawrence returned the next day, October 11, 2003, and was informed of the investigation underway by Internal Criminal Investigations Bureau.

On October 12, 2003, at approximately 0015 hours, Sergeants Garza and Schram interviewed [redacted] in the living room at his home. Mr. [redacted] is a Los Angeles County Sheriff's Department Explorer at Pico Rivera Station. He stated he was on a "ride-a-long" with Deputy [redacted]. He confirmed they were involved in a vehicle pursuit of a stolen vehicle. Mr. [redacted] said the radio car they were in was equipped with "Lo-Jack" tracking equipment and that they were not in the pursuit, but paralleling the pursuit. He said they were on a residential street when the suspect's vehicle approached their car. He said Deputy [redacted] stopped the radio car and the suspect rammed the driver's door of the radio car with the vehicle he was driving. The suspect continued in the opposite direction. He said he did not know the name of the street. Deputy [redacted] advised units that the suspect had struck his vehicle. Mr. [redacted] was unable to recall if Deputy [redacted] made any comment to him about the suspect striking their car, but [redacted] did ask if he was okay.

Mr [redacted] said Deputy [redacted] drove to the termination of the pursuit and parked the car. Deputy [redacted] got out of the car and walked out of [redacted] view. Mr. [redacted] did not leave the radio car. Mr. [redacted] thought Deputy [redacted] was only gone a short time, possibly a minute or two prior to returning to the vehicle. He stated he was on scene for approximately 25 minutes prior to departing to Pico Rivera Station. Mr. [redacted] said he did not witness the arrest of the suspect. He simply saw the suspect escorted to a vehicle and placed in the back seat of the radio car.

Mr. [redacted] was not interviewed about his observations regarding to the traffic collision, nor was he interviewed relative to his observations at the terminus of the pursuit.

Mr. [redacted] was present during the debriefing at Pico Rivera Station given by Lieutenant [redacted] Mr. [redacted] denied being coached or scripted by any deputy personnel regarding what transpired during the pursuit and at the terminus of the pursuit.

On October 12, 2003, at 0148 hours, Sergeants Garza and Schram interviewed **Sergeant** [redacted] in the Watch Commander's office at Pico Rivera Station. The interview was audio tape recorded and the following is Internal Criminal Investigations Bureau's summary of her interview:

> Sergeant [redacted] confirmed she was interviewed by Sergeants William Hines and Elier Morejon at approximately 1745 hours on October 11, 2003.
>
> As Sergeant [redacted] followed the path of the foot pursuit, she observed deputies escorting Mr [redacted] toward the radio cars. She indicated it was dark and neighbors began coming out of their homes to see what was happening. Sergeant [redacted] spoke with Deputies Callahan, Morris, Perez, [redacted] and [redacted] and was told that no force was used. She said the deputies' report of not using force seemed consistent with her observations and she had no reason to doubt them.
>
> Sergeant [redacted] said she spoke with Mr. [redacted] as he sat in the rear seat of the radio car. Sergeant [redacted] said she believed the suspect told her he was "hit" by the deputies. Sergeant Schram asked Sergeant [redacted] what she understood from Mr. [redacted] statement of being "hit." She assumed he meant that he struggled while his hands were placed behind his back. She did not witness the handcuffing. She did not question the suspect further at this time as the scene was somewhat chaotic and she felt she could investigate further at the station.
>
> Sergeant [redacted] said she did not see blood on Mr. [redacted] nose when she spoke with him. Upon learning of his bloody nose, Sergeant [redacted] inspected the vehicle Mr. [redacted] crashed and observed a drop of blood on the steering wheel next to the cruise control.

Sergeant [redacted] attended the debriefing at Pico Rivera Station and was later present with Lieutenant [redacted] when they interviewed [redacted] and observed marks beneath his chest. She contacted the involved deputies in the briefing room, where she confronted them with the information of visible injuries on Mr. [redacted] and his allegation of force.

Sergeant [redacted] was later summoned to the briefing room where the involved deputies had gathered. Sergeant [redacted] recalled Deputy [redacted] was the first to admit that force was used. As Sergeant [redacted] interviewed each deputy, she made brief notations in a notebook pertaining to the names of the deputies, the type of force and where the force was applied. She read her notes as follows: "Callahan on the right arm with two punches to the right rib area; Morris with the left arm with two punches; [redacted] jabbed twice; [redacted] handcuffed and Perez left rib area." She said she believed the deputies had said more, but she only noted the above information, as she intended to obtain further details from their written reports of their use of force.

> **IAB Note:** Sergeant Schram removed the two pages from Sergeant [redacted] notebook and booked the originals as evidence. He incorporated photocopies of Sergeant [redacted] notes as an exhibit in the ICIB case. **Refer to Exhibit A, Page 56, for photocopies of Sergeant [redacted] notes**

Sergeant [redacted] estimated that approximately two hours had passed between the time the deputies first told her that no force had been used in the arrest of Mr. [redacted] and their individual reporting of force.

Sergeant [redacted] conducted a video tape recorded interview of [redacted] on October 11, 2003, at approximately 0236 hours. Sergeant Hines provided Sergeant Schram with the video tape, which is retained in the case file. The video taped interview was conducted as an administrative interview in accordance with Department policy. The interview lasted approximately nine minutes and during the interview, Sergeant [redacted] asked Mr. [redacted] to explain what occurred when he was arrested. Mr. [redacted] gave the following account:

Mr. [redacted] stated he ran between two house and was unable to climb a fence. He denied running into the fence. Mr. [redacted] turned around and saw deputies running toward him as he got down on both knees. He laid face down and placed his hands on the back of his head. Mr. [redacted] denied resisting arrest or struggling.

He confirmed he was not handcuffed when he was initially punched and kicked. He said he was struck on the back of his head and kicked on his right cheek and mouth area. When Sergeant [redacted] asked where else he was hit, Mr [redacted] pointed to his right and left sides and

said he was punched in these areas. He then said he was kicked a couple of times in the ribs on each side and felt "blows" from every direction. He rubbed the back of his neck and said he was stomped on the base of his neck and upper back. Mr. [redacted] said he was hit three times in the stomach after being stood upright. He said he had pain to his neck, right cheek and abdomen.

On October 13, 2003, at approximately 1150 hours, Sergeants William Looney and Ron Schram spoke with [redacted] in an interview room at Pico Rivera Station. The interview was audio tape recorded and the following is Internal Criminal Investigations Bureau's summary of the interview:

Mr. [redacted] confirmed he had been pursued by deputies after a vehicle and foot pursuit and was subsequently arrested. Mr. [redacted] said he was wearing a black thermal long sleeve shirt beneath a white short sleeve T-shirt, baggy blue jean shorts and white "K-Swiss" tennis shoes.

Mr. [redacted] recounted that he got out of the car after the car became disabled on a front lawn. He ran down the street about four to five houses and ran (west) across the street from where he left the car. He ran between two homes where he tried to jump a six-foot wooden fence. Mr. [redacted] said he leaped at the fence, grabbing the top of the fence. He was unable to pull himself over the fence, at which time he turned around, facing the street. He then got down on his knees.

As Mr [redacted] turned around he saw deputies run around the corner of the garage toward him. He did not know the number of deputies. Mr. [redacted] believed there were White deputies present when he placed himself face down on the ground. When he got up from the ground, there were Black, Hispanic and White deputies present. He did not know how many deputies were present.

Mr. [redacted] described the area where he had run as having a garage on one side and a chain-link fence on the other. The surface was wet or moist grass. He indicated the surface was not slippery and the area was dark, as there were no lights.

Mr. [redacted] said he got down on the ground by his own choice. He placed his hands on the back of his head. Mr. [redacted] indicated that he positioned himself on a slight angle, with his head closer to the chain-link fence side of the alcove. The chain-link fence was to his right and the garage was to his left. He heard foot steps but heard no verbal orders or commands by the approaching deputies. Mr. [redacted] was aware of a helicopter overhead and light coming from the helicopter.

At some point, Mr. [redacted] said he heard a deputy order him not to move. Mr. [redacted] said he was face down and the voice was coming from the approaching deputies. He said he felt one deputy at his right side (the chain-link side) and thought this deputy grabbed his hands. He believed the deputy was on his knees when he heard the deputy repeat, "Don't move." Mr. [redacted] heard voices and said he was kicked on his left side. Mr. [redacted] did not know who kicked him.

Sergeant Schram created a rough sketch depicting the area where Mr. [redacted] had run at the end of the pursuit. Mr. [redacted] drew a stick figure placing himself at a slight right angle with his head closest to the chain link-fence. Sergeant Schram added the arms of the stick figure with the hands on the back of the head, which Mr. [redacted] confirmed this reflected his positioning. **Refer to Exhibit A, Page 57**

Sergeant Looney asked Mr. [redacted] if he heard any orders by the deputies. Mr. [redacted] said he did not hear any orders until a deputy told him to put his arms behind his back. Mr. [redacted] said he was face down the entire time and did not see the deputies until he was handcuffed and brought to his feet.

Mr. [redacted] pointed to the middle of his left side near his kidney area as the first place he was kicked. He was then kicked on the right side of his face. Mr. [redacted] pointed to his right temple area. Sergeant Schram asked if he recalled anything being said by the deputies. Mr. [redacted] said he recalled the deputies saying, "You want to run, fucker?" He said he was then stepped on or stomped on the upper right portion of his back and neck. He said the foot was held on him briefly, then removed. Mr. [redacted] said he was punched on his head, back and sides. He did not know how many times he was struck. He denied struggling, fighting or resisting at anytime. Mr. [redacted] did not see who struck him or kicked him.

Mr. [redacted] said he was handcuffed and stood up. Two or three officers stepped to the side and another officer walked up and struck him three times with an unknown object he was holding in his (the deputy's) hand. Mr. [redacted] said he was struck with the butt end of the object. Mr. [redacted] said the deputy walked directly in front of him and hit him. Mr. [redacted] made a back handed motion with his right fist and guessed the object was possibly a flashlight. Mr. [redacted] said he looked at the deputy who hit him and confirmed he could identify the deputy. He described the deputy as a male White, 36 years old, clean shaven, with "blondish-brown hair." Mr. [redacted] said the deputy was a little taller than he was.

Mr. [redacted] recalled that the deputy that stuck him said something to him, but he did not recall what was said. Mr. [redacted] thought the deputy who struck him with the object was also the

same deputy he had run into during the vehicle pursuit. He briefly explained he ran into a police car while evading deputies. Mr. [redacted] then said he thought the deputy said something about the car, but he was not certain.

> **IAB Note:** According to ICIB investigators, Sergeants Looney and Schram, Mr. [redacted] was not wearing his white T-shirt and he stated it was in his cell. Sergeant John Anderson retrieved [redacted] shirt from his cell and provided it to Sergeant Schram. Sergeant Schram observed that the shirt appeared to have grass stains on the front and back. There appeared to be a small spot of blood on the outside, back portion of the shirt. The blood appeared to be on the outside of the shirt, as the spot was less visible from inside the shirt. I saw a black mark on the front side of the shirt at the bottom left edge. The black mark appeared to be consistent with black shoe polish. **Refer to Exhibit A, Page 21, regarding the shirt**

On October 14, 2003, at 1614 hours, Sergeants William Looney and Ron Schram interviewed **Deputy Daniel Morris**, in an interview room at Norwalk Sheriff's Station. Sergeant Schram advised Deputy Morris that he was a suspect of an allegation of an assault under the color of authority that occurred at the terminus of a vehicle pursuit on October 10, 2003. Sergeant Schram asked Deputy Morris if he wanted to voluntarily speak to them about the incident and he stated, "No, I do not." The interview was terminated.

On October 14, 2003, at 1622 hours, Sergeants William Looney and Ron Schram interviewed **Deputy Arthur Mark Perez,** in an interview room at Norwalk Sheriff's Station. Sergeant Schram advised Deputy Perez that he was a suspect in an allegation of assault under the color of authority which occurred at the terminus of a pursuit on October 10, 2003. Sergeant Schram asked Deputy Perez if he would voluntarily speak to them about the case and he declined by invoking his right to counsel. The interview was terminated.

> **IAB Note:** On October 15, 2003, Sergeants Looney and Schram interviewed Deputy Randall Poulos, Aero Bureau pilot, and Deputy John Racz, Aero Bureau observer, assigned to Air 21 on the night of the incident. Deputy Poulos said that he saw the suspect run between the two houses and two deputies directly behind him. He further saw that the suspect was either on the ground or trying to get over the fence, but Poulos was not certain. He saw two deputies struggle with the suspect, but the situation appeared under control and he departed the scene. Deputy Racz said that he saw the suspect run between some houses, followed by deputies; however, he did not see any force used. **Refer to Exhibit A, Pages 22 & 23 for their complete interview summaries**

Additional IAB Note: On October 16, 2003, Captain Arthur Ng sent a letter to Mr. [redacted] for KCBS/KCAL television stations, requesting any unedited news footage of the pursuit to be safeguarded as possible evidence in this case. On October 20, 2004, Sergeant Schram had a telephone conversation with Beth Jones, attorney for CBS Legal Department, and she refused to provide any unedited footage. She cited the "Shield Law," First Amendment protection, as the reason for the approval. She also denied Sergeant Schram from viewing any of the unedited footage of the pursuit and arrest. **Refer to Exhibit A, Page 24 for additional information**

On November 5, 2003, at approximately 1315 hours, Sergeants Looney and Schram re-interviewed **Deputy** [redacted] at Sheriff's Communication Center in the Operations Lieutenant's office.

Deputy [redacted] had been interviewed as a suspect during the first hours of this investigation, and he refused to provide a statement as such. Upon reviewing the facts, Sergeant Schram determined that Deputy [redacted] was not a suspect in this case, but rather a witness to the events.

Sergeant Schram advised Deputy [redacted] that he was not a suspect but a witness and asked him to make a voluntary statement concerning the arrest of [redacted]. Deputy [redacted] stated he understood, but said he did not want to make a statement. Sergeants Looney and Schram concluded their interview.

On November 5, 2003, at 1400 hours, Sergeants William Looney and Ron Schram interviewed **Deputy Eric Callahan**, in the Watch Commander's office at Pico Rivera Sheriff's Station. Sergeant Schram advised Deputy Callahan that he was a suspect in an allegation of assault under the color of authority which occurred at the terminus of a pursuit on October 10, 2003. Sergeant Schram asked Deputy Callahan if he wanted to speak to them about the investigation and he stated, "No." They immediately terminated the interview.

IAB Note: On November 5, 2003, Sergeants Looney and Schram inspected the area of the terminus of the pursuit and the arrest. They took photographs of the arrest area. **Refer to Exhibit A, Page 60** They also canvassed the area and spoke to several residents in the area; however, they did not locate anyone that witnessed the actual arrest of the suspect. **Refer to Exhibit A, Pages 26 & 27 for complete summaries of the interviews**

Additional IAB Note: On November 24, 2003, Sergeants Looney and Schram interviewed Deputy Walid Tawdi, Aero Bureau pilot, and Deputy John O'Hara, Aero Bureau observer, who were also assigned to Air Unit on the night of the incident. Deputy Tawdi said that he didn't see anything that appeared inappropriate. Deputy O'Hara said that he was unable to see much from his position. **Refer to Exhibit A, Pages 27 & 28 for their complete interview summaries**

Additional IAB Note: On November 25, 2003, Sergeants Looney and Schram went to North County Correctional Facility and met with Mr. [redacted] The purpose was to conduct photographic line-ups to identify the deputies who allegedly assaulted him. **Refer to Exhibit A, Pages 28 & 29 for the results of the line-ups** On December 10, 2003, Sergeant Schram interviewed Lieutenant [redacted] at Pico Rivera Station. The purpose of the interview was to have him review photographs of [redacted] taken on October 13, 2003. **Refer to Exhibit A, Pages 29 & 30 for the details of that review and Exhibit A, Pages 58 & 59 for the photographs**

On February 13, 2004, the criminal investigation was completed and the Internal Criminal Investigations Bureau presented the case to the Office of the Los Angeles County District Attorney's Justice System Integrity Division for filing consideration.

IAB Note: Refer to Exhibit A, Pages 30 through 34 for a complete summary of ICIB's investigation in this case.

On September 22, 2004, Deputy District Attorney Christina V. Fleming declined to file charges, stating that there was insufficient evidence to substantiate a criminal filing against Deputies Larry [redacted], Eric Callahan, Daniel Morris and Arthur Perez.

IAB Note: Regarding Suspect [redacted] claim that he surrendered to the deputies, the Deputy District Attorney wrote, *"However, it is noteworthy that shortly after the arrest, Callahan told Sergeant [redacted] that after [redacted] failed to get over the fence, he put his hands on his head and went down on his knees. At that point, he was grabbed by Morris after which they all fell down on the wet slippery grass where [redacted] was ultimately handcuffed. For unknown reasons, Callahan left out the salient details of what transpired between the time they ended up on the ground and the time that the handcuffs ended up on [redacted] wrists. Unfortunately, because of the deputies' lack of candidness, it is impossible to deduce exactly what happened, particularly in*

light of the final version which the deputies wrote in their reports." A footnote to this statement read, *"Deputies Callahan and Morris each wrote a report which described* [redacted] *as aggressively turning towards them with raised fists after he failed to get over the fence. There is no mention of* [redacted] *placing his hands on his head and getting on his knees as Callahan initially told Sergeant* [redacted]*"* **Refer to Exhibit A, Pages 34A through 34I**

On December 7, 2004, Chief Sandra Hutchens and Chief Marvin Cavanaugh requested that the Internal Affairs Bureau conduct an administrative investigation into the allegations of misconduct by the deputies in this case. Additionally, Sergeant [redacted] was added as a Subject in this investigation.

Deputies Larry [redacted]**, Eric Callahan and** [redacted] were interviewed as Subjects in this case on December 9, 2004, and **Deputies Daniel Morris and Mark Perez** were interviewed as Subjects in this case on December 10, 2004, at the Internal Affairs Bureau by Sergeant Elier Morejon and me. Also present was Helen Schwab from Green and Shinee. The following is a summary of each interview. **Refer to Subjects' Interviews Section for a complete transcription of each interview.**

Deputy [redacted] related that he recalled the pursuit and the arrest of Suspect [redacted] on October 10, 2003. Aero unit, Air 21, advised that they had a "low-jack hit" in the area. As he was checking the area, he heard Deputy Callahan go in pursuit of the stolen car. The Watch Commander allowed three units in the pursuit, so Deputy [redacted] only monitored the pursuit in case the suspect fled on foot. At one point, while stopped and monitoring the pursuit, the suspect drove directly at Deputy [redacted] patrol car and rammed the open door, slamming it shut. He immediately advised over the radio that the suspect rammed his car. Deputy [redacted] said the he continued to remain in the area, monitoring the pursuit. A short time later, Deputy [redacted] heard that the suspect had crashed near the intersection of Pico Vista and Rushmore Street and that the suspect had fled from the car and deputies were in foot pursuit.

Deputy [redacted] drove to the location of the foot pursuit and he could see other deputies running ahead of him. The other deputies had gone down the street and between two houses. Deputy [redacted] said, "And by the time I got there, I had seen Suspect [redacted] He was up--Deputy Morris had him on the left side and Deputy Callahan had him on the right side, and they were coming out. And at that time, that's when I saw Suspect [redacted] he kind of lunged forward towards Deputy Morris. It looked like he was going to head-butt him and Deputy Morris leaned back. He let go of the grip. That's when I jabbed him two to three times in the mid-torso section with my flashlight. I had it with me in my right hand. Deputy Callahan grabbed him, pulled him back, and that's when I

realized that he'd already been handcuffed when I had hit him. And after that, there was no further incident there. After it was all over, we were asked if there was any force used and I didn't say anything. I think the reason being is 'cause I was probably a little panicked when I realized he was handcuffed. I just had a momentary lapse of bad judgment. We got to the station probably within 20, 30 minutes 'cause I had to go back to the location to get the address of exactly where the 245 on my vehicle... or on me had happened. So when I got back to the station, we sat down and we were asked about it. We were asked if there was anything else that we wanted to say about the incident. Nobody said anything at that time. And it was then just a few minutes later where, you know, I had to make the decision, 'Hey, I know what I did. I know I used force.' I believe I was justified in using the force and why I didn't immediately report it was not the right thing to do, so I did report it to Sergeant [redacted] that I had used force and what I had to do at that time and we documented the force that we used in our report."

> **IAB Note:** According to Sergeant [redacted] and Lieutenant [redacted] the force was eventually reported approximately two hours after the incident. Neither Sergeant [redacted] nor Lieutenant [redacted] recalled that an attempted "head-butt" was reported to them the night of the incident. Approximately thirty to forty-five minutes after the termination of the pursuit, Lieutenant [redacted] conducted a debriefing of the pursuit. At the conclusion of the debriefing, which lasted approximately fifteen minutes, he essentially asked all of the involved deputies if they had anything to say or report to him. At this point, according to Lieutenant [redacted] the deputies would not make eye contact with him and [redacted] felt "suspicious" so he went to interview the suspect (See Lieutenant [redacted] Witness interview above). Sergeant [redacted] after accompanying Lieutenant [redacted] in speaking with the suspect, and at the direction of Lieutenant [redacted], went back to the briefing room and told the deputies that the suspect was alleging force and appeared to have injuries on his chest. She essentially gave the deputies another opportunity to report force, after which they went out to the station parking lot and approximately thirty-five to forty-five minutes later, came to her and said that they now wanted to report their force. According to Sergeant [redacted] Deputy [redacted], at this point, reported that he struck the suspect with a flashlight; however, he did not report that the suspect was handcuffed when he was struck. The reported reason Deputy [redacted] struck the suspect was because he was resisting, and the deputies could not get control of the suspect's hands. According to Sergeant [redacted], she then proceeded to conduct a Use of Force investigation and, in doing so, returned to the jail and interviewed the suspect on video tape. It was at this point that the suspect told her that he was struck with a flashlight while he was handcuffed. Sergeant [redacted] advised Lieutenant [redacted] of this additional information and [redacted] directed Sergeant [redacted] to talk to Deputy [redacted] again about this

"discrepancy." According to Sergeant [redacted] she re-contacted Deputy [redacted] and asked him if the suspect had been handcuffed at the time he was struck; Deputy [redacted] said something to the effect, "Yeah, I could've hit, you know, after he was handcuffed." He then acknowledged that he did in fact hit the suspect while the suspect was handcuffed.

During follow-up questions, Deputy [redacted] said that he did not witness any force used by any of the other deputies. Deputy [redacted] said that the suspect was already in custody and standing by the time he arrived between the two houses.



IAB Note: According to Deputy [redacted] he did not know until sometime later that any deputy other than him used force on the suspect. Later in his interview, he said it wasn't until he and the other deputies went out to the parking lot that he learned that they used force.

Deputy [redacted] was again asked his reason for not reporting his use of force to Sergeant [redacted] while still at the scene of the incident and he said, "It was bad judgment on my part."

IAB Note: According to his PPI, Deputy [redacted] has been involved in [redacted] incidents prior to this one.

He was then asked if he recalled during the pursuit debriefing, Lieutenant [redacted] asking if any force was used during the arrest, and he said, "I recall him asking if there was anything else that we wanted to say about the incident." He acknowledged that neither he nor the other deputies said anything at this point. Deputy [redacted] was then asked if the reason that he did not say anything at this point was a continuing "lapse of judgment," and he said, "Yes."

IAB Note: Ms. Schwab then said, "Well he said he was nervous about the fact that when he struck the suspect, he didn't realize initially he was handcuffed. And was worried about that."

Deputy [redacted] acknowledged that the debriefing was short and at the end, Lieutenant [redacted] and Sergeant [redacted] left the room. When asked what he and the other deputies did at this point, Deputy [redacted] said, "You know, we needed to talk to Deputy Callahan 'cause he was the initial deputy handling the report and tell him what we had done and what we were going to put in our Supplemental Reports at that time." He added that they walked outside for this discussion. When asked what they discussed outside, Deputy [redacted] said, "We were just discussing the pursuit and how it was going to be handled on the report with Deputy Callahan." Deputy [redacted] said he also

told Deputy Callahan, "Look, I need to report what I did, and I didn't initially make that report to the Sergeant."

When asked, Deputy [redacted] acknowledged that Deputes Callahan and Morris saw him strike the suspect with his flashlight.

> **IAB Note:** During Sergeant [redacted] interview, she said that she recalled that she returned to the briefing room about fifteen minutes after going to the jail with Lieutenant [redacted] and the deputies were still in the briefing room. Deputy [redacted] was told the sequence of events according to Sergeant [redacted], i.e. That she and Lieutenant [redacted] left the briefing room for about fifteen minutes and she came back in and all the deputies were still in the briefing room. She then told the deputies what the suspect was alleging and they needed "to think about" what they needed to tell her and "get back" with her. Deputy [redacted] was asked if he remembered the sequence of events as Sergeant [redacted] had described them and he said, "She may have. I know we were still in the briefing room. We contacted her in the briefing room and outside. I can't exactly tell you, yes, that occurred at that moment. But I know we spoke to her -- I spoke to her several times." After a brief discussion with Deputy [redacted] and his counsel, Deputy [redacted] was then essentially asked, "Are you all still sitting there after the debriefing and before you go outside, does Sergeant [redacted] come in and in essence, give you guys another opportunity to say that you used force?" Deputy [redacted] answered, "Yes. She was in the briefing room and she came back in and talked to us." Deputy [redacted] was then asked if he and the other involved deputies told Sergeant [redacted] "We need time to think about" or "We need time." Deputy [redacted] said, "I don't recall what happened after that. Then I remember I did speak to her outside." He then acknowledged that it was at this time that he and the other deputies went out to the parking lot by saying, "That's probably the time we went out to the parking lot." He could not recall how long they were in the parking lot.

Regarding where he was when he actually reported his force to Sergeant [redacted], Deputy [redacted] was unsure of the exact location; however, he recalled that he spoke to her both in the briefing room and outside. His recollection was that most of the conversation was outside and he was alone with Sergeant [redacted]

> **IAB Note:** During Sergeant [redacted] interview, she said she could not recall going outside to speak to any of the deputies.

When asked what he first reported to Sergeant [redacted] Deputy [redacted] said, "I don't know my exact words, but I know it had been to the effect that I did hit him with my flashlight and I didn't realize that he was handcuffed, and I panicked." He added that he could not recall if he told Sergeant [redacted] that he panicked.

> **IAB Note:** According to Sergeant [redacted] Deputy [redacted] did not mention that the suspect was handcuffed when he was struck. It was not until Sergeant [redacted] went back a second time to interview the suspect on tape, that the suspect said that he was handcuffed when struck. She then advised Lieutenant [redacted] who then told her to talk to [redacted] again about the discrepancy. She then located [redacted] and it was at that time, that he acknowledged that the suspect was handcuffed when he struck him.

When asked, Deputy [redacted] said that he did not recall Sergeant [redacted] writing anything in her notebook related to the force.

Deputy [redacted] was asked if the force the other deputies used was discussed when they first went outside and he said, "No." Deputy [redacted] was then asked, "At some point, did you realize the deputies used force, that the other deputies used some type of force?" Deputy [redacted] answered, "Yes, when we were discussing, you know, what I'm going to report, what Eric is -- excuse me-- what Deputy Callahan is going to report, and Deputy Morris, the force that was -- was used to -- when Suspect [redacted] was taken into custody."

When asked if any of the involved deputies talked about the reasons why that they hadn't reported their force, Deputy [redacted] said, "No. I don't know why they didn't." When asked he added, "I didn't ask."

When specifically asked, Deputy [redacted] said that he did not hit the suspect with his flashlight because the suspect ran from the deputies, nor because the suspect rammed his radio car. Deputy [redacted] also said that he did not ever say to the suspect, something to the effect of, "This is what you get for running from us"

Deputy [redacted] acknowledged that on the night of the incident, he attempted to speak with Lieutenant [redacted] about the incident. When asked what he was going to tell Lieutenant [redacted] Deputy [redacted] said, "Exactly what we had talked about right now."

At the conclusion of the interview, Deputy [redacted] was asked if he had anything to add and he said, "No, other than the fact that, you know, given the same situation again, I would do the right thing and immediately report any force to my supervisor." When asked, he said he was familiar with the

Department's Use of Force Policy and that the force he used during this incident was reasonable and necessary.

Refer to Exhibit A-Pages 51 & 52 for the Supplemental Report written by Deputy [redacted] and Subjects' Interviews Section for complete interview transcript.

Deputy Eric Callahan related that he recalled the pursuit, assault on a police officer and arrest of Suspect [redacted] on October 10, 2003. Deputy Callahan said that he was the first unit behind the suspect and saw the suspect crash and run from the car. Deputy Callahan and Deputy Morris ran after the suspect. Deputy Callahan said that he was approximately ten to fifteen yards behind Deputy Morris.

Deputy Callahan said, "As I come around the corner, I see Deputy Morris pull -- I hear a loud bang. I don't know what it was, but I hear or I see Deputy Morris trying to pull him from -- pull him -- basically pull him from the fence. The fence did not give. He tried to run into the fence and knock it over, but that did not happen." When asked if he actually saw that happen, Deputy Callahan said, "Did not see that." He continued by saying, "So I see Deputy Morris pull him from the fence."

> **IAB Note:** At this point in the interview, Deputy Callahan asked if he could refresh his memory by referring to his report. He was told that he could refer to his report at any time. He then took a few moments to read his report.
>
> **Additional IAB Note:** On page 5 of Deputy Callahan's report he wrote, *"As I was in foot pursuit of the suspect, I noticed that G.E.T. Deputy Morris was also in foot pursuit of the suspect running along side of me. The suspect ran north bound along the west side wall of the residence, until he came to a locked wooden fence. I observed the suspect fall directly into the fence head first then fall to the ground. The suspect attempted to pull himself up and over the fence but was unsuccessful. During this time, I ordered the suspect to get down on the ground. At which time he turned towards Deputy Morris and myself with his arms elevated towards his shoulders and his hands clenched in to fists. The suspect attempted to side step me and lunge towards Deputy Morris in what I believed was an attempt to strike him. Deputy Morris was able to grab the suspect by his left arm and directed him towards the ground. While the suspect was falling, I had to redirect my foot placement to the side, due to the confined space we were in and so that the suspect would not fall on me."* After he reviewed his report the interview continued: It was pointed out to Deputy Callahan that he wrote that Morris was running beside him, Deputy Callahan

acknowledged that he made an error and that Deputy Morris was not running beside him. Deputy Callahan then said, "And when I came around the corner, yes, he did -- I -- I heard him hit the fence at the same time Deputy Morris was pulling him from the fence." It was then pointed out to Deputy Callahan that he wrote in his report, "*I observed the suspect fall directly into the fence head first then fall to the ground.*" He was then asked if that sentence was an error. He answered, "I'm trying to recall, sir. It's been quite some time." He was then told again by his Counsel that he could review his report. Deputy Callahan then said, "According to my report, I observed him fall into the fence as he was basically trying to get up and over the fence at the exact time he was being pulled from that spot toward -- by Deputy Morris. That's the best way that I can describe it."

Additional IAB Note: At this point in the interview, investigators suggested to Deputy Callahan that he should review his report in a little bit more detail. We then went off the record for approximately three minutes while Deputy Callahan again reviewed his report. The interview then continued. Deputy Callahan was then asked if he had reviewed his report and he said that he had. He was then asked to continue.

Deputy Callahan said, "As the suspect ran along the -- the west side of the residence, he came to a fence that appeared to be locked and he tried -- he ran into the fence in what I believe was an attempt to knock the fence over and get into the backyard. The fence stood steady; it did not give. He tried to go up and over the fence and then realized, possibly due to his weight, that he was not going to be able to get up and over it, so he turned around." Deputy Callahan was asked if he actually observed this as it was occurring and he said, "At this point, I am."

He continued, "Yes, I'm around the corner now. I'm still -- I'm approximately about 20 -- about 20 feet away as I'm running up -- as I'm seeing this happen. At this point, Dan -- Deputy Morris--is yelling at him to 'Get on the ground, get on the ground.' I'm yelling it, too, to the best that I could after having ran, at which time the guy turned around and takes that fighting stance. At that point, I believe the -- I observed the suspect lunge towards Deputy Morris in what looked like his attempt at hitting him or striking him, as I wrote."

IAB Note: Deputy Callahan then asked, "Do you want me to say what I observed Deputy Morris do or my actions?" Deputy Callahan was then told that we wanted him to tell us everything that he could recall regarding the incident and if he needed to refer to his report he could. Deputy Callahan then said, "I'm going to have to almost read from this, if that's okay." Deputy Callahan then related that he did recall the incident, but not all the details exactly. At this point in the interview, Deputy

Callahan again asked if he could read to us from his report. We explained that we would rather not have him read directly from his report; however, he could read it again to refresh his memory. It was then suggested that we could go off the record again and his Counsel implied that that would not be necessary. She suggested that we give him a chance to review it. After a pause, while Deputy Callahan was reading his report, we went off the record. Approximately nine minutes later, after Deputy Callahan reviewed his report, we went back on the record. Deputy Callahan was asked to continue from the point where he came around the corner of the house and to explain the first thing that he saw:

Deputy Callahan continued, "I see the suspect attempting to get over the fence. Attempting to get over the fence. I see that he's unable to do so, okay. He was attempting to get over the fence by pulling himself up and -- up and over, but because of the proximity where Deputy Morris was to him and the fence not giving way, he was unable to. At which time the guy turned around, took -- took this fighting stance with us, or with Deputy Morris who was immediately there. I was some short distance away from him. As I -- as I'm drawing closer to him, I see the suspect, lunge is the only word I can use, in an attempt to like strike Deputy Morris. Deputy Morris was able to grab his arm. He was able to grab his arm, his left arm, 'cause he was now on his left side. I was on his right side as the -- it's a very confined space between the block wall and this house. I'm unsure of the exact foot distance, but it's probably five -- five feet, maybe six feet wide, and the suspect is large; Dan's not, but with the three of us, it was -- it was a confined area. So I'm -- I'm moving myself around so that I can attempt to gain control of this guy and myself not get hit in the meantime, at which time I was able to grab his arm, and with both of us, we were able to take him down to the ground. And after -- let's see, I put my knee on the center of his -- on the center of his shoulder blades to gain control. Okay. The guy was big. He was about 240 pounds. He was big. And I remember him trying to get up off the ground while he was still struggling. Okay. During the whole time, he was given verbal commands. He was told to stop resisting. He was told to stop fighting, which he didn't."

IAB Note: In his report, Deputy Callahan did not write that he grabbed the suspect's arm and assisted in taking him to the ground. **Please refer to pages 10 through 24 of the transcribed first interview of Deputy Callahan for his complete description of the force that he used and witnessed during this incident and his description of the attempted head-butting of Deputy Morris by the suspect.**

Deputy Callahan was told the suspect's version of what occurred during the arrest: That he ran and tried to jump the fence. He couldn't get over the fence, so he turned around and saw the two deputies running toward him. At that point, he went down on his knees and/or laid down on the

ground and put his hands behind his head while interlacing his fingers. When asked, Deputy Callahan said that he did not see the suspect do as was just described. He added that the suspect never went down on the ground on his own.

> **IAB Note:** Prior to Deputy Callahan's interview, we showed him and his Counsel a redacted portion of Sergeant [redacted] interview which was conducted on the evening of the incident. The portion was regarding her account of what Deputy Callahan first told her when she arrived on the scene and it read, *"Then asked him,* (to Callahan) *was there, was there force used? You know. What happened when you guys came in contact with him? He* (Callahan) *said that they were behind him. The guy ran. And he ran into the fence. Then he tried to get over it. Like kind of a weak attempt, 'cause he grabbed the top and tried to climb over it. And knew that he couldn't make it over. So he* (Callahan) *said the guy put his hands up on his head and went down to his knees. They* (the deputies) *grabbed him there. You know. They went to the grass. And then they handcuffed him and brought him out."* We then referred to this portion of Sergeant [redacted] interview and continued with Deputy Callahan's interview.

Deputy Callahan acknowledged that Sergeant [redacted] arrived on the scene. He was then asked if he had any conversation with her regarding any force that's used, and he answered, "According to her, I do. I remember being so overwhelmed at the time, just from all the incidents going on and she asked me what -- who used force. And I don't -- I do not recall what I told her. I know that I did not report my force then when I was supposed to. I believe I said something to the effect of 'Not now.'" When asked what he meant, Deputy Callahan said, "Like I -- like 'I'll get to you -- I'll get to you later' or 'I'll get back to you on this one.' I got a lot of things that were going on that I was very unaware of, I'd never done, handled from start 'til end. Pursuit, I had not been in one. So there was a lot of things that I was unaware of with all the cars that were out there and all the-- the facts, everything that was going on. I was overwhelmed at the time."

Deputy Callahan was then asked if he was familiar at the time with the use-of-force reporting policy and if he knew he was obligated to immediately report his force to a Sergeant or above. He said, "Yes sir." He then volunteered, "That was -- that was a drastic error on my part." Deputy Callahan was then asked if the reason that he did not immediately report his force was because at the time he was "overwhelmed" and he "made an error." He answered, "No, I'm not -- I'm not making an excuse. I'm just saying it was -- it was an error. I should have told her and I didn't."

> **IAB Note:** According to his PPI, Deputy Callahan had been involved in [redacted] force incidents prior to this one.

Referring to Sergeant [redacted] account of what Deputy Callahan said to her, Deputy Callahan was asked to clarify whether he didn't say that to her or if he didn't recall saying that to her. Deputy Callahan said, "A portion of this is correct. I -- what I do recall telling her was that the ground was very wet and very muddy and that would explain why we were covered in mud. I do not recall telling her that the suspect put up his hands and then went down to his knees. I do not recall telling her that. I don't recall telling her very much at the time." Deputy Callahan said that he also didn't think that he told Sergeant [redacted] that the suspect tried to climb over the fence, but couldn't make it over the fence.

> **IAB Note:** It was then pointed out to Deputy Callahan that the suspect's account of the incident was similar to Sergeant [redacted] account of what he (Callahan) had reported to her. Deputy Callahan acknowledged the similarities.

When asked, Deputy Callahan acknowledged that he attended a pursuit debriefing later at the Station and that Lieutenant [redacted] and Sergeant [redacted] were there along with the other involved deputies: Deputies [redacted], Morris and Perez. When asked, Deputy Callahan said that Lieutenant [redacted] did not ask the deputies if they used force. When asked if Lieutenant [redacted] discussed "force issues" during the debriefing, Deputy Callahan said, "I don't recall if he discussed force issues. I do remember him talking about the pursuit and that he asked us if there was anything that -- that we would like to talk about. Which I could probably reference to him wanting to know about force. But as far as him actually saying that, I do not believe that that's what he said. But he did make reference if there was anything that we'd like to talk about, and this was the time to do it."

When asked, "Whose responsibility is it to report force? Is it yours or is it the responsibility for the Lieutenant to ask?" Deputy Callahan said, "It's mine. This -- this whole thing was mine. I should have been the one to make sure that everybody had reported their force. This was mine from the beginning. I assume the responsibility for that. I should have told -- I should have made sure that everybody went in and did that. I -- I didn't do that. I didn't even do it for myself."

Regarding what occurred after the pursuit debriefing, Deputy Callahan recalled that he and the other involved deputies went outside. He said, " We went outside and basically talked about what happened. It was the first moment that we had to actually discuss what -- 'What did you do? What active part did you play in it? Where were you at? What -- what really happened? Why did we not report this force right away?' There was a discussion about that."

Deputy Callahan was then told Sergeant [redacted] account of the events: that she and the Lieutenant left the briefing room and about fifteen minutes later, Sergeant [redacted] returned and all the deputies were still in the briefing room. She then advised the deputies of what the suspect was alleging and

that they needed to figure out what they needed to tell her and get back to her. She then left and all the involved deputies at this point left the briefing room and went out to the parking lot. Deputy Callahan was asked if he recalled that account and he said, "What I remember is a little bit different. I do not -- we did stay in there and I believe that she came in and told us that force had been used, 'So you guys need to figure this out.' We went outside at that point. It was -- when we were outside that she came out and told us additionally, 'Now he's got flashlight marks on him.' And I remember being upset, thinking, I didn't see anybody hit him with a flashlight, who -- who did this. But we had -- we had -- I'm going to have to back up because we had reported our force. The force was reported and then it was brought to our attention that he had been struck with a flashlight. And that's why I remember being upset, because I had talked to everybody individually and attempted, you know, to find out what they did, what I saw and what they did, and nothing was brought up about the flashlight."

> **IAB Note:** According to Sergeant [redacted] she never went out to the parking lot to talk to the deputies.

Deputy Callahan was then told that he needed to give a time line or sequence of the events as he recalled them. Deputy Callahan agreed with the sequence of events up to the point of the debriefing. However, his recollection was that immediately after Lieutenant [redacted] and Sergeant [redacted] left the briefing room, the deputies then walked out to the parking lot. While in the parking lot they discussed the force for the first time. According to Deputy Callahan, the force was not discussed prior to this time. After they discussed the force, they went back in the station to report the force they had used.

When asked what was discussed in the parking lot, Deputy Callahan said, "Why haven't we said anything. What we've done was -- is fine. What we did was okay." Deputy Callahan added that he believed that the force used was okay; however, failing to report the force was not okay.

Deputy Callahan could not remember whether he was in the parking lot or inside the station when he actually reported his force. He said, "I don't -- to be honest with you, I do not remember exactly where. I believe I reported it to Lieutenant [redacted] I don't remember where we were at, if we actually went back in the station and told him." He was then asked, "At some point, did you yourself report your force to somebody?" He said that he did report his force and he believed that he reported it to Lieutenant [redacted] He did not remember when he reported his force, but he did recall that it was after he was in the parking lot. When asked if Lieutenant [redacted] came out to the parking lot, Deputy Callahan said, "I think maybe at one point he did." When asked if Sergeant [redacted] came out to the parking lot, Deputy Callahan said, "On a few occasions."

> **IAB Note:** During their interviews, Sergeant [redacted] and Lieutenant [redacted] said they did not go to the parking lot to talk to the deputies. Additionally, according to Lieutenant [redacted], at no time, was the force related to this incident ever reported to him by the involved deputies.

Deputy Callahan estimated that he and the other deputies were in the parking lot for about thirty minutes.

When asked if he reported his force only after it was brought to his attention by Sergeant [redacted] that the suspect was alleging that force was used, Deputy Callahan acknowledged that he did, only in reference to time and not because the suspect was alleging force was used. Deputy Callahan was asked, "In reference of time, did you report your force after it was brought to your attention that the suspect was alleging that, one, he was punched and kicked and/or struck with a flashlight?" Deputy Callahan answered, "The flashlight did not come up 'til later, but once we were told that, that he was alleging that there was a use of force, at that point, I reported my force. That's to the best of my recollection."

> **IAB Note:** In his answer, Deputy Callahan said, "The flashlight did not come up 'til later..." When asked if he remembered where this took place, Deputy Callahan said, "No, 'cause I remember going back outside 'cause there was -- there was a lot of outside time. I remember being back outside and Sergeant [redacted] I believe she came out of -- actually walked out of the jail and came up to us and said -- that's when she noticed that she had seen flashlight marks on him. And that's when she brought it to our attention that, 'The force that was reported didn't say nothing about flashlights. You guys better get this right.'" Deputy Callahan said he had not known at this point about the flashlight strikes. Earlier in his interview when explaining Deputy [redacted] actions of striking the suspect, Deputy Callahan said that he did not know that Deputy [redacted] had a flashlight in his hand during the strikes. He said that he only discovered that later; however, he did not recall when. **Refer to Deputy Callahan's transcribed interview, pages 21 and 22**

When asked, Deputy Callahan said that he did not know why the other deputies failed to report their force. He said it was not talked about.

When asked if he reported any force to Sergeant [redacted] Deputy Callahan said, "The way the force was reported, it wasn't a formal situation, 'Come in, sit down, let's talk about this.' It would have been probably like in passing, 'Hey, Sarge, we used force on this. All right, okay, well make sure you get it straight on the report.' It wasn't stand there and 'Let me drill you about it.' So the way

it was done was very informal. That's why I -- I have a hard time recalling who I said -- who I actually said it to and exactly what time."

When asked if there was a reason he didn't list in his Incident Report who he notified concerning his use of force, Deputy Callahan said, "No, sir. There's no excuse for that." When asked if he knew that was required in his report, he said, "I was unaware. I'm unaware. I had a sergeant review my report after I was done and it was never -- it was never -- it was never brought up. And I didn't -- I don't believe that I knew that I had to list that person in there. I -- I do know that now, but at the time, along with several other errors I made that night, that was just another one."

> **IAB Note:** In an effort to again determine when Deputy Callahan had knowledge that Deputy [redacted] had struck the suspect with a flashlight, he was again asked, "And when was it that you did find out that he had a flashlight in his hand? Were you still at the scene or was it back at the station?" He answered, "No. That was when Sergeant [redacted] had come out and told us that he had marks on him that were indicative of being struck with a flashlight. And I asked specifically who -- who did that." When asked if he posed this question in the presence of Sergeant [redacted], he said, "No. I asked every one of the deputies that was out there. I looked them right in the eye and I said, 'If you hit him with a flashlight, you better say something 'cause this looks very bad. Looks like we're trying to cover it up for you.' And Deputy [redacted] said, 'It was me.' And I said, 'I never saw your flashlight, [redacted] Where was it at?' He showed me his flashlight. I know -- I've seen his flashlight before. And he said, 'Well it was right in my hand.' And I was like, well that makes sense. That's why I didn't see it. I didn't know that that's what he did not report initially."
>
> **Additional IAB Note:** During follow-up interviews with Deputies [redacted] Perez and Morris, each was asked if while in the parking lot, they recalled anyone saying, "If you hit him with a flashlight, you better say something 'cause this looks very bad. Looks like we're trying to cover it up for you." They all said that they did not recall hearing this statement.
>
> **Additional IAB Note:** In an effort to again determine the sequence of events, specifically if the deputies remained in the briefing room or immediately went to the parking lot after [redacted] and [redacted] left the briefing room, Deputy Callahan was again told what Sergeant [redacted] recalled. Deputy Callahan responded, "That could very well be. The events where, we were in and out of the briefing room and outside several times. Therefore, the exact time line as to when things were said, I'm just trying to give you my best recollection." He then basically reiterated that he did not

know about the flashlight strikes until Sergeant [redacted] came out to the parking lot and told them. This was after the initial reporting of force to [redacted]

At the conclusion of the interview, Deputy Callahan was asked, "We know you didn't report the force you used. Why didn't you report the force that other deputies used?" and he answered, "It was an error in judgment on my part. I have -- I have no excuse and I have no reason except it was -- it was not done and the fact I know better."

Refer to Exhibit A-Pages 35 through 42 for the Incident Report written by Deputy Callahan and Subjects' Interviews Section for complete interview transcript.

Deputy [redacted] related that he recalled the pursuit and arrest of Suspect [redacted] on October 10, 2003. Deputy [redacted] said that he was the third unit behind the suspect. Deputy [redacted] said that by the time he arrived at the terminus of the pursuit, the suspect had already crashed and was already out of his vehicle, running from the deputies. He did not see the suspect crash or exit the car. He saw one deputy on the lawn at [redacted] Rushmore and he assumed that was where the other deputies and the suspect were. He did not know who the deputy was.

Deputy [redacted] then ran to the location and tripped as he came around the corner of the house; as he tripped, he ran into one of the deputies. He explained, "I pretty much tackled one of the other deputies as I was coming onto the scene." He saw that the suspect was on the ground and his hands were out in front of him. Deputies Callahan, Perez and Morris were on top of the suspect and trying to get his arms behind his back. When asked which deputy he "tackled," Deputy [redacted] said, "It wasn't Callahan, I know that. It was either Perez or Morris, but whoever was on--well, I was coming around, it would be on the right side. I don't know who."

Deputy [redacted] said that the suspect was on his stomach, with his head toward the street and his arms straight above his head. The deputies were struggling with the suspect and ordering him to stop resisting. When asked to describe the struggling, Deputy [redacted] said, " I know that on his right side, I believe they were trying to get his arm behind his back. No one had his left arm. That's when I ran in there and tried to grab his left arm and pull it behind his back. They were punching him in the sides here." When asked, "Who's they?" Deputy [redacted] said, "Like I said, I don't know who I ran into. Whoever I ran into on the suspect's left side, and I don't think it was Callahan. Callahan I think, was more down towards his feet. So I'm sure it was Morris or Perez." Deputy [redacted] added that he was not certain about the positions of each deputy. He did see a deputy on the left side of the suspect strike the suspect's left side with a fist about three times. Deputy [redacted] said that he also saw the deputy on the right side of the suspect, strike the suspect's right side, two to three times with his fist. He could not recall who of the three that deputy was.

When asked what the suspect was doing to resist, Deputy [redacted] said, "He was -- he was -- he was squirming. Yeah, he was, you know, shifting his body from side to side." He added that the suspect was not allowing the deputies to handcuff him.

As the suspect continued to struggle, Deputy [redacted] was on the left side of the suspect, near his shoulder, and grabbed the suspect's left arm and tried to pull it back. The suspect "stiffened up." During this time, either Morris or Perez was to the right side of [redacted] however, [redacted] could not recall which one. As Deputy [redacted] was still attempting to pull back the suspect's left arm, the same two deputies punched the suspect's sides again, and they were able to pull the suspect's arms behind him and handcuff him. Deputy [redacted] handcuffed the suspect.

Deputy [redacted] said that he never punched, kicked, nor struck the suspect with a flashlight. Once the suspect was handcuffed, Deputy [redacted] said that he got up and walked back to the original traffic collision. He did this to search the suspect's vehicle. When he left, the suspect was still on the ground. As Deputy [redacted] was walking away, he saw Sergeant [redacted] walking up. Deputy [redacted] thought he and another deputy impounded the stolen car and eventually went back to the Station. Deputy [redacted] said that he never saw Deputy [redacted] at the scene.

When asked if it was his opinion that he used force on the suspect, Deputy [redacted] said, "Yes. I tried to overcome the resistance of another, so yes that would be force." When asked if he reported his force to anyone, Deputy [redacted] said, "Not immediately, no." Deputy [redacted] acknowledged that Sergeant [redacted] was his immediate supervisor and he did not report his force to her while still at the scene. When asked why he did not report his force and the force that he had observed, Deputy [redacted] said, "I think my concern at that point was to go back to the car, clear the car and make sure everything was okay. As I said, I walked all the way back here. I saw Sarge up here. So I dealt with the car and I left." He added, "Dealt with the car, then I left the scene. Eventually, I went back to the station, but I did not--you know, I should have probably walked back and talked to her, but I did not. I went back to the station."

Deputy [redacted] was asked why he didn't go back and report his force to Sergeant [redacted] after the car was cleared and he said, "Good question. I have no excuse. I just didn't go back. I think at one point, somebody said, 'We're all going to the station' and that's where we went."

> **IAB Note:** According to his PPI, Deputy [redacted] has been involved in [redacted] incidents prior to this one.

Deputy [redacted] said that he, along with Deputies Perez, Morris, Callahan and [redacted] then went to the briefing room at the Station. When asked what happened in the briefing room, Deputy

[redacted] said, "I think Sergeant [redacted] came in at one time, asked if--I don't even know her exact words, but just asked if anything happened other than, you know, the pursuit. And nobody said anything. I know that Sergeant [redacted] -not Sergeant [redacted] but Lieutenant [redacted] came in, asked the same thing, and same result, nobody said anything." Deputy [redacted] was asked why he didn't say anything at that point and he said, "Good question. I don't know. It was a mistake. I should have said something." When asked, Deputy [redacted] acknowledged that he was familiar with the Use of Force policy.

When asked what happened next, Deputy [redacted] said, "After Lieutenant [redacted] came in and asked, we walked outside, basically discussed what happened amongst ourselves, and came back in. I don't know who we reported to, if it was a sergeant or a lieutenant. I don't recall who was in that -- in that second time we went back in there."(briefing room)

> **IAB Note:** After telling Deputy [redacted] Sergeant [redacted] account of the events during and after the debriefing, he was asked if he recalled those same events. He said he did not recall Lieutenant [redacted] talking about the importance of reporting force. He said, "He may have. Honestly, I don't recall what--we were in there for several minutes. I don't recall the exact conversation. I remember the end of the conversation when he asked, 'Was there anything else you want--you want to tell me?' and that's when, you know--nothing was said." When asked what he thought Lieutenant [redacted] meant, Deputy [redacted] said, "I think he implied, 'Did anybody use force?'" Regarding his recollection of the sequence of events, Deputy [redacted] said, "I think--I remember the main briefing and nothing was said. And I don't recall her (Sergeant [redacted]) coming back in. I mean that's, you know, my bad memory, I guess. I don't recall her coming back in and saying the guy has injuries or anything like that. I just remember getting up after the debriefing with Lieutenant [redacted] and going outside and discussing it and coming back in and telling him. I don't recall, you know, her or Lieutenant [redacted] ever coming out and telling, 'The guy's injured; he's hit with a flashlight.' I don't remember any of that."

Deputy [redacted] was asked when he finally reported the force that he used and/or observed, and he said, "After we went out and spoke in the parking lot." He added that they went back in as a group. He could not recall who they reported their force to, but assumed it was Sergeant [redacted] but added that he wasn't specifically sure. All the involved deputies were present when the force was reported. When it was pointed out that his report did not indicate who he reported his force to, Deputy [redacted] acknowledged that he should have done that.

Deputy [redacted] could not specifically recall when he found out that the suspect was struck with a flashlight. He said that he probably heard it while in the parking lot. He did not recall Sergeant [redacted] telling him about the flashlight strikes.

When asked again why he had not reported his force during the debriefing, Deputy [redacted] said, "Good question. I don't know; froze. I remember Lieutenant [redacted] specifically going down asking each individual, you know, 'Is there anything else you want to tell me?' And [I] was the last one and I just froze 'cause nobody else said anything."

During follow-up questions regarding the force used at the scene, Deputy [redacted] said he did not recall any deputy having a hold of the suspect's left hand or arm at the time he first saw the suspect. He said, "His left arm, no, no, 'cause that's the side I went to. I think someone had his right hand, but not his left hand." Also when asked, Deputy [redacted] acknowledged that during the time the suspect was on the ground, [redacted] did not ever see the suspect to have his hands tucked underneath his chest or in his waistband area. The suspect's hands were always out and above his head and they were trying to pull them back behind his back.

At the conclusion of Deputy [redacted] interview, he said that he had nothing to add.

Refer to Exhibit A-Pages 53 for the Supplemental Report written by Deputy [redacted] and Subjects' Interviews Section for complete interview transcript.

Deputy Daniel Morris related that he recalled the pursuit and arrest of Suspect [redacted] on October 10, 2003. Deputy Morris said that he was either the second or third unit behind the suspect. Deputy Morris saw the suspect crash and run from the car. Deputy Morris, along with Deputy Callahan chased the suspect to [redacted] Rushmore Street, where the suspect ran between two houses. Deputy Morris was in the lead. Deputy Morris knew that his partner, Deputy Perez, was also behind him, but he did not know if Perez was ahead of Callahan.

Deputy Morris said, "As I chased him, he fell forward into the fence separating the front yard from the back yard. He got up, and as he's pulling himself up over the fence, I ordered him and Deputy Callahan ordered him to stop. At that point, he fell back off the fence, turned towards us. His fists were balled. He was--I guess his adrenalin was pumping, I don't know. But anyway, he turned his-- in a fighting stance, lunged towards me, at which point I grabbed, I believe it was his left arm, and pushed him to the floor." Deputy Morris continued, "The ground, fell to the ground. I was hunched over in an awkward position trying to maintain control over his left arm. I felt that he was--he was-- He fell to the ground. I grabbed his left arm as he's falling to the ground. He--well let me back up. He fell to the ground. He started to get up off the ground. I grabbed his left arm. He pulled his

arm away from me towards his chest. As he's pulling his arm away from me towards his chest, I--I felt I was losing the grip on his--on his arm. I struck him several times with my right hand in his left, I think his left side. At this point, I'm hunched over; I'm standing up. I'm not--I'm not kneeling. I'm standing up over him. He's on the ground trying to get up and trying to pull his arm away from me. I--I strike him several times in the--in the side. I still don't have a very good grip on his--on his arm. I reposition myself. At that point, I drop--I put my knee on his--on his shoulder--shoulder/neck area and I was able to get a little more leverage at that point. And with my partner--my partner--I noticed my partner there at that point (Perez). I don't know if he was there before that, but I noticed him there at that point. He struck him a couple times in the side as well. At that point, I was able to pull his arm back behind his back and I had control over his left arm. I believe Deputy [redacted] showed up. I'm not sure who had his right arm, but at some point, we're able to handcuff--handcuff him with his left arm and right arm and stand him up."

Deputy Morris did not know who handcuffed the suspect. He added, "I know that I controlled his left arm. I'm not sure who actually put the handcuffs on him or who had his right arm. I was kind of focused on what I was doing."

In follow-up questions, Deputy Morris was asked if he forced the suspect to the ground or if the suspect fell to the ground. Deputy Morris said, "He lunged towards me with his arm and I grabbed his arm. And I'm not sure if it was my action that put him on the ground or his footing or whatnot, but as he came at me, I grabbed his arm and he went to the ground."

Deputy Morris recalled that only Deputy Callahan was there, at the point the suspect went to the ground.

Deputy Morris was told the suspect's account of the arrest: that he came up to the fence and tried to get over it; however, he couldn't, so he gave up, turned around, went down on his knees and put his hands on his head. Deputy Morris responded, "That didn't happen."

Deputy Morris related that during the struggle, he gave the suspect several commands to stop resisting. When asked how many times he struck the suspect, Deputy Morris said, "I would say more than two, less than--less than six. I--I wasn't counting." He added that he struck the suspect with his right fist on the suspect's left side and back area. Deputy Morris said that he did not strike the suspect with a flashlight, nor did he kick the suspect. Deputy Morris said he did not see Deputy Callahan strike the suspect. Deputy Morris saw Deputy Perez strike the suspect on his left side.

When asked his reason for striking the suspect, Deputy Morris said, "He was pulling away from me. He was pulling his arms away from me. He was fighting, he was struggling trying to--trying to get

away. He was pulling his arms under his body. I didn't know if he was--I didn't know if he had anything on him that could hurt me. I had no idea. All I knew is that he didn't want to go to jail." The suspect did not punch or kick Deputy Morris.

Regarding his position in relationship to the suspect during the strikes, Deputy Morris said he was perpendicular to the suspect and on the suspect's left side. Deputy Perez was to the right of Deputy Morris, on the suspect's left side. Deputy Callahan was on the right side of the suspect.

Deputy Morris was asked if he knew why he didn't see Callahan punching the suspect's right side and Morris said, "I would say the--there's a lot going on. It's dark. I wasn't really focused on what the other guys were doing. I was focused on what the suspect was doing."

After the suspect was handcuffed, he was stood up. Deputy Morris was on the suspect's left side, holding the suspect with two hands, one on the left biceps area and one on the left forearm. Deputy Morris explained what happened next, "Two hands on him. We stand him up. As he is--while he's standing up, he lunges towards me with his head. I lean back, and as I--I lean back away from him, Eric reached across, grabbed him by the shoulder, and pulled the suspect away from me, at which point – Deputy [redacted]? Yeah, I always mess up his last name; he struck him one time in the stomach." When asked how many times he saw Deputy [redacted] strike the suspect, Deputy Morris said, "I saw him strike him one time in the stomach." Deputy Morris said he only saw Deputy [redacted] hand strike the suspect. They then gained full control of the suspect and escorted him to a patrol car.

Deputy Morris was asked to describe the suspect's exact actions during the "attempted head-butt." He responded, "I was standing close to him. I had--I had hold of his bicep and his forearm and kind of--we were in close proximity to each other and he swung his--he swung his head towards me in a head-butting type fashion. I'm standing on his left side kind of--my chest would be towards his--towards his tricep area." He added that he was still perpendicular to the suspect and, "at that point, he--the suspect swung his head at me. That's the best way I can describe it, he swung his head." Deputy Morris said that if he hadn't have leaned back, the suspect would have hit him in the head. When asked what part of the suspect's head would have hit him, Deputy Morris said, "The--a front portion of his forehead would have hit me." He added that it would have hit him (Morris) in the face.

Deputy Morris acknowledged that after the suspect was placed in the patrol car, Sergeant [redacted] and Sergeant Robert Lawrence arrived at the scene. Deputy Morris acknowledged that both sergeants asked him if force was used. When asked what he told them, Deputy Morris said, "At the time, I

said, 'No.'" When asked why he said, "No," Deputy Morris said, "I have no explanation other than poor judgment at the time."

> **IAB Note:** According to his PPI, Deputy Morris has been involved in [redacted] force incidents prior to this one.

Deputy Morris then acknowledged that he has used force before and that during those times, he reported his force per policy.
Deputy Morris said that while he was at the scene, he did not overhear any deputy report force, nor did any deputy explain what happened during the arrest.

> **IAB Note:** During Sergeant [redacted] interview, she gave an account of what Deputy Morris had reported to her. Later during his interview, Deputy Morris was told Sergeant [redacted] account of what occurred at the scene: that she spoke to Morris and Morris told her that the suspect had put his hands up and everyone went to the ground together because of the wet grass and that the suspect was then handcuffed without any further incident. Deputy Morris said that he did not recall telling this to Sergeant [redacted] He said he recalled talking to Sergeant [redacted] however, he did not recall giving her an explanation as to what occurred. He did recall that Deputy Perez was with him when he talked to Sergeant [redacted] at the scene. He recalled that she asked them if force was used and that they said, "No."

Deputy Morris acknowledged that he attended the pursuit debriefing by Lieutenant [redacted] He also acknowledged that during the debriefing, Lieutenant [redacted] wanted to know if force was used during the incident and Morris did not report his force at the time. When asked why he didn't report his force at this time, Deputy Morris said, "I would say it was one bad decision after another at that point."

Deputy Morris was told the account of the sequence of events according to Sergeant [redacted] that she and the lieutenant left for a short time to go talk to the suspect and was gone for about fifteen minutes and then came back to the briefing room and the involved deputies were still there. She then told the deputies that the suspect was alleging that he was punched and/or was struck in some manner and that they needed to figure out or discuss what they needed to tell her. And then at that point, the involved deputies collectively went outside and discuss the issues. Deputy Morris agreed with [redacted] account by saying, "Yeah, sounds about right."

When asked how long the discussion took, Deputy Morris said, "I couldn't really put a time on it. I don't think it was--it was that long of a--of a period that we were out there." When asked what was

discussed, he said, "Basically that, you know what, we made a mistake and we should really report what--what happened, you know; didn't do anything wrong up until the point that we didn't report it."

Deputy Morris then acknowledged that at some point, he reported the force he used. He thought he reported his force to Lieutenant [redacted] in [redacted] office or in the briefing room, but he could not recall. When asked what force he reported, Deputy Morris said, "All the force that is documented, all the force that was used."

> **IAB Note:** During Lieutenant [redacted] interview, he stated that no force was ever reported to him on the night of the incident.

Regarding [redacted] flashlight strike, Deputy Morris said he did not know about it until later when the force was being reported to Lieutenant [redacted] Morris was specifically asked if the flashlight strike was discussed outside with the other deputies and he said, "No. That was when we--when it was reported to the Lieutenant." Deputy Morris was asked, "So when you were outside discussing this situation, no one said at that point that a flashlight had been used?" He answered, "No. We weren't discussing the--the force that was used; we were discussing the fact that we used force and that we needed to report it." He then reiterated that he didn't know about the flashlight strike until the force was being reported and he overheard it being reported.

Deputy Morris acknowledged that he did not include in his report, who he reported his force to. When asked the reason he didn't include it, he said, "I didn't report it at that--at that time." He acknowledged that he understood the policy and that the policy requires that documentation.

Deputy Morris asked why, besides bad judgment, he did not report his force, if he felt the force was justified and he felt that he didn't do anything wrong. Deputy Morris answered, "The--it was a very adrenaline-pumping situation, you know. It--it terminated. And when it terminated, I just wasn't thinking clearly. That's my only--my only explanation. I just didn't do the right thing at that point. I should have and didn't. And then by the time we got back to the station, you know, I had already said no, I hadn't used any force out in the field. By the time I got back to the station, it was--it just, you know, there was a certain--there was a certain lag time in saying--between realizing you know what, 'I didn't do anything wrong.' At this point, I'm going to get in trouble anyway, you know. At some point, I got to step up and say, you know what, 'I'm going to get in trouble, face facts, and just--and just deal with it, do the right thing and deal with it. Take your lumps and go on with it.' And that was it. Just took a little while to get from point A to point B, that's all."

When asked, Deputy Morris acknowledged that he reported his force after learning that the suspect was alleging injuries. When asked if he only reported his force because the suspect alleged that he was hit, Deputy Morris said, "No." Deputy Morris was then asked, "If the suspect hadn't alleged anything, would you have reported your force at some point?" He answered, "Yes."

At the conclusion of the interview, Deputy Morris was asked if there was anything he wanted to add, that he felt was important to the investigation and he said, "Only that I'm sure I'm I--I'm with everyone when I say, I wish we had done the right thing at the--at the right time. We wouldn't be here now."

Refer to Exhibit A-Pages 46 through 48 for the Supplemental Report written by Deputy Morris and Subjects' Interviews Section for complete interview transcript.

Deputy Arthur Mark Perez related that he recalled the pursuit and arrest of Suspect [redacted] on October 10, 2003. Deputy Perez was working with Deputy Morris.

The suspect crashed his car and ran. Deputies Morris and Perez chased the suspect. Deputy Perez said, "At this point, at the termination of pursuit there was a foot pursuit. We chased--we chased him. Deputy Morris was ahead of me. He was a little bit closer, tactically a little bit closer than where I was. He was ahead of me. When I had come around the corner, he was on--the suspect was on his stomach and he was flailing around his arms and legs. He wasn't handcuffed yet. He was--he was being combative. He--I recognized him as a gangster. I know that Deputy, I believe Deputy Callahan, or--was on the right side and he was attempting to--he was struggling with his right hand trying to handcuff him. He was ordering him to put his hands behind his back so we can handcuff him. He was refusing. He was still flailing. Deputy Morris was on the left side trying to--struggling with his left hand trying to handcuff him. They couldn't--between the two of them, they couldn't handcuff him yet. He was still flailing. I--I recognized him as a gangster. I thought he was possibly armed. I thought that if I can--I gave him a couple of strikes to, I believe it was the right side of the torso area in an attempt, so they can handcuff him. I was ordering him at the same time to put his hands behind his back so we can handcuff him. They still couldn't get him handcuffed. He was trying to get away. He was trying to--he was flailing. His feet were kicking. I believe--if I can refer to my report." After a short pause, he continued, "So we were still ordering him to put his hands behind his back. Deputy Callahan, I saw him strike the suspect a couple times on the right side of the torso also trying to get him handcuffed, to bring his hands behind his back. At that time, I believe it was Deputy [redacted], he finally arrived, and with his assistance, we're, between the four of us, finally get both arms behind his back so we can handcuff him. And that was without further incident after that."

IAB Note: During Deputy Callahan's interview, he said that Deputy Perez was next to Deputy Morris on the left side of the suspect.

In follow-up questions, Deputy Perez was asked if Deputy Morris was ahead of him during the foot pursuit. He related that Deputies Morris and Callahan were both ahead of him. He also said that he believed that Deputy Callahan was in the lead, a few steps ahead of Deputy Morris, and Morris was about ten yards ahead of him (Perez).

IAB Note: Callahan and Morris both said in their interviews that Morris was the lead deputy in the foot pursuit.

Additional IAB Note: During Perez' interview, it was pointed out to him that he didn't mention in his report that Deputy Callahan was in the foot pursuit of the suspect. When asked if there was a reason for not putting Callahan in his report, Deputy Perez said, "Nah, I just listed my partner 'cause he was directly--I was with him; he was my partner, so Deputy Callahan was ahead of him, so I just listed Deputy Morris since he was closest to me."

Regarding the suspect's position when Perez arrived between the houses, Deputy Perez said that the suspect was on his stomach, and his hands were out and above his head. When asked to describe the suspect's actions, Deputy Perez said, "He was flailing. Deputy Morris and Deputy Callahan were trying to get his hands behind his back. He was just refusing. He was fighting. He was kicking. He just--they couldn't do it."

When asked to describe the positions of everyone, Perez said, "Deputy Morris was--I believe he was on the left side and Callahan was on the right side." Regarding his own position, Perez said, "I was on Deputy Callahan's side, on the right side." He further explained that Callahan was on his right side, nearer to the suspect's head.

Deputy Perez said that he and Deputy Callahan struck the right side rib area of the suspect. They did not have anything in their hands at the time. Deputy Perez said that he did not see Deputy Morris strike the suspect; he only saw Deputy Callahan strike the suspect. Deputy Perez said that he repeatedly ordered the suspect, "Put your hands behind your back."

According to Deputy Perez, when he first arrived to the scene of the struggle, Deputy Callahan did not have control of the suspect's right arm. It was after Deputy [redacted] arrived that they were finally able to get the suspect's hands behind his back.

Deputy Perez said that he punched the suspect three or four times. The reason that he punched the suspect was because they couldn't get control of his arms. Deputy Perez wasn't sure who actually handcuffed the suspect, but believed it was Deputy [redacted]. Deputy Perez did not recall if Deputy [redacted] left the scene after the suspect was handcuffed. He did not recall seeing [redacted] at the scene after the suspect was handcuffed.

Deputy Perez acknowledged that Sergeants [redacted] and Lawrence arrived at the scene at some point and asked if force was used. When asked what he told them, Deputy Perez said, "At that point, we said, 'No.'"

> **IAB Note:** According to his PPI, Deputy Perez has been involved in [redacted] force incidents prior to this one.

When asked if he had any conversation or discussion with Sergeant [redacted] while at the scene, Deputy Perez said, "I don't remember talking to her." He also did not recall Deputy Morris talking to her.

Deputy Perez was told Sergeant [redacted] account of what occurred at the scene: that she spoke to both him and Deputy Morris together, at the same time, and that they essentially told her that the suspect had put his hands up and the deputies went to the ground because of the wet grass. And then [redacted] was then handcuffed without any further incident. When Perez was asked if he recalled that account, he said, "I don't recall talking to her about that."

When asked why he did not report his force to either Sergeant [redacted] or Sergeant Lawrence, Deputy Perez said, "You know, it was at the termination of the pursuit, you know. Our adrenaline and everything, like it was pumped up and running. I mean it was a lapse in judgment. It was just a lapse in judgment, basically."

Deputy Perez acknowledged that he has used force in the past and familiar with the force policy. He was then asked why this situation was different than ones in the past and he answered, "It was just a--it was just a very high-risk situation. Like I said, our adrenaline was flowing and it's a long pursuit. It was just--it was just a lapse in judgment."

Deputy Perez acknowledged that he later attended a pursuit debriefing at the Station with Sergeant [redacted] and Lieutenant [redacted] and that Lieutenant [redacted] related that if force was used, it needed to be reported. Deputy Perez admitted that he did not report his force to Lieutenant [redacted] during this debriefing. When asked why he didn't report his force, Deputy Perez said, "Like I said, it was

just--it was a lapse in judgment." He was then asked if his adrenaline was still pumping at the time and he answered, "Yes, it was still--it was soon after still. It was, I'd say, still going."

Deputy Perez said that he recalled that at some point after the debriefing, Sergeant [redacted] and Lieutenant [redacted] left the briefing room. Then at some point Sergeant [redacted] came back and told him and the others that the suspect was now alleging that he was struck in some way. She told them something to the effect, "You need to think about whatever you need to tell me and come back to me." Deputy Perez acknowledged that at that point, he did not report his force to Sergeant [redacted].

Deputy Perez was asked what he and the other deputies did at this point, and he said, "I believe we went outside. I thought we didn't do anything wrong. Like I said, it was a lapse in judgment and I know we didn't do anything wrong. So we got to, you know, tell them that yeah, we used force. And I thought to myself, too, 'We didn't do anything wrong. We just got to tell them we used force and write it.'"

At some later point, Deputy Perez reported his force. He said he "believed" that he reported it to Sergeant [redacted]; however, he could not recall if he did that independently or as a group with the other involved deputies. Deputy Perez acknowledged that in reference to the sequence of events, it was after he learned from Sergeant [redacted] that the suspect had alleged that he was struck and had injuries.

It was pointed out to Deputy Perez that in his report, he had not documented who he reported his force to. When asked why, he said, "No specific reason. I just--I should have documented it, but I didn't. That was an oversight on my part." He said in past incidents, he has done so.

Deputy Perez estimated that the incident lasted about two minutes; from the time he reached the suspect to the time the suspect was stood up. Deputy Perez said that he walked away as soon as the suspect was stood up. He said, "I had walked away by then. I don't--I don't recall what happened after that." Deputy Perez said that he did not see Deputy [redacted] strike the suspect, nor did he recall seeing Deputy [redacted] at the scene. Deputy Perez said, "Later on, but not--I don't recall, it was dark. I don't recall seeing him there at that time." When asked what he did after the handcuffing, Deputy Perez said, "After that, I remember walking back to the car. There was cars all over the place. I was just trying to--my flashlight was in the street. I'm just--I was trying to pick up stuff and I just started heading back." Deputy Perez said that he didn't recall if he assisted in picking up the suspect, nor did he recall if the suspect was still on the ground when he walked away.

Regarding the flashlight strikes by Deputy [redacted], Deputy Perez said that he didn't learn about them until sometime later at the station when the Supplemental Reports were being written.

Near the conclusion of the interview, Sergeant Morejon asked Deputy Perez, "One might ask, here's a pursuit, a use of force, five experienced deputy sheriffs out in the field, and all five deputy sheriffs, after using force, have a lapse in judgment. Can you explain your part? I mean one might ask, here's five different individuals and all five decide or have a lapse in judgment and don't report the force. Any explanation for that?" Deputy Perez answered, "I can't talk for everybody else and it's just myself, you know. I had a lapse in judgment. I really can't speak for everybody else, what they were thinking or--or what was going through their head."
According to Deputy Perez, there was no discussion about the force he used or witnessed, while still at the scene. He agreed that he had a number of opportunities to report his force.

Deputy Perez said that he had nothing to add at the conclusion of his interview.

Refer to Exhibit A-Pages 49 and 50 for the Supplemental Report written by Deputy Perez and Subjects' Interviews Section for complete interview transcript.

> **IAB Note:** The following is summary of the force as related by each involved deputy during their interviews:

Morris said the suspect turned and went into a fighting stance and lunged toward him. At this point, Morris grabbed the suspect's left arm, and pushed the suspect to the ground. Morris then said that the suspect fell to the ground. Morris was unsure if he forced the suspect to the ground or the suspect fell to the ground. Morris was hunched over the suspect in an awkward position trying to maintain control over the suspect's left arm. The suspect started to get up off the ground. The suspect pulled his arm away toward his chest. As the suspect pulled his arm away from Morris, Morris felt he was losing the grip on the suspect's left arm. Morris, with his right hand, then punched the suspect's left side two to five times. Morris was standing/hunched over the suspect at the time he punched him. Morris did not have a "good grip" on the suspect's left arm so Morris placed his knee on the suspect's shoulder/neck area to gain leverage on the suspect's left arm. At this point, Morris noticed Perez there for the first time. Morris saw Perez punch the suspect a "couple" of times, also on the suspect's left side, and Morris was then able to pull the suspect's left arm behind the suspect's back and control it. [redacted] arrived and the suspect was handcuffed. Morris did not know who had control of the suspect's right hand, nor did he know who actually handcuffed the suspect. Morris did not see Callahan strike the suspect. Morris said that his reason for punching the suspect was because the suspect was struggling and trying to get away and the suspect was "pulling his arms under his body." During the punches, Morris was on the suspect's left side. Perez was to Morris' right side and Callahan was across from Morris, on the suspect's right side.

Callahan said that as he came around the corner, he saw Morris trying to pull the suspect from the fence. Callahan said he heard a loud bang, and the suspect tried to run into the fence and knock it over. Callahan then said that he did not actually see the suspect try to knock down the fence. After reviewing his report, Callahan said that as he came around the corner, he heard the suspect hit the fence at the same time he saw Morris pulling the suspect from the fence. Callahan's report read, "I observed the suspect fall directly into the fence head first, then fall to the ground." After reviewing his report again, Callahan said he saw the suspect run into the fence, in an attempt to knock it over. The suspect was unable to knock the fence over, so he tried to climb over it but couldn't. Callahan and Morris both ordered the suspect to the ground. The suspect then turned around and took a "fighting stance." Callahan observed the suspect lunge toward Morris in what looked like an attempt at hitting Morris. At this point in his interview, Callahan asked if he could read directly from his report. When told that we preferred that he did not read directly from his report, we went off the record and Callahan reviewed his report again. After reviewing his report a third time, Callahan reiterated that the suspect tried to climb over the fence, but was unable to do so. The suspect turned and took a "fighting stance." Morris was a few feet away at the time and Callahan was about ten feet away and still running toward the suspect. The suspect lunged at Morris and tried to strike Morris. Morris, who was on the left side of the suspect, grabbed the suspect's left arm. Callahan adjusted his position in the confined space and then grabbed the suspect's right arm and together, with Morris, they were able to take the suspect to the ground. During a follow-up interview and a review of the news footage video showing the end of the foot pursuit, Deputy Callahan acknowledged that he is seen in the video with his hands on the fence to his left and he is moving his legs and feet. Callahan said that he was re-positioning his feet.

Once on the ground, Callahan positioned his right knee over the center of suspect's shoulder blades, in an attempt to keep the suspect on the ground because the suspect kept trying to get up off the ground by utilizing his knees and elbows. Callahan said they had a hold of the suspect's arms at the time. Callahan was concentrating only on the suspect's right arm/hand, trying to get it behind the suspect's back in a position for handcuffing. Callahan was not sure and it was not in his report, but based on past arrests, he believed he had one hand on the suspect's right wrist or forearm and one hand near the suspect's shoulder for leverage. At one point, Callahan felt they were losing control because the suspect was raising off the ground. Callahan punched the suspect's right side/torso several times to get the suspect to give up his right hand. Callahan let go of the suspect's right wrist in order to punch the suspect's right side rib area.

After Callahan punched the suspect, the suspect gave up his right hand and Callahan had it in a control hold behind the suspect's back in a position for handcuffing. Callahan then looked up and saw Perez was next to Morris, on the suspect's left side. Callahan saw Perez punch the suspect's left side/rib area, unknown which hand. Morris was still attempting to gain control of the suspect's left arm/hand. Perez was directly to Morris's right side and at the lower torso area of the suspect. After Perez punched the suspect, he and Morris were able to gain control of the suspect's left arm and put it behind the suspect's back. [redacted] arrived and the suspect was handcuffed. Callahan could not recall who actually put the handcuffs on the suspect. Callahan did not see Morris strike the suspect.

Perez said that the suspect was on the ground on his stomach. Perez was on the suspect's right side. Perez was next to Callahan who was also on the right side. Callahan was closer to the suspect's head and Perez was closer to the suspect's waist. Perez saw Callahan strike the suspect's right rib area. Perez also struck the suspect's right rib area. Perez did not see Morris strike the suspect. Perez said that Callahan could not get control of suspect's right hand until [redacted] arrived. Perez said he did not recall seeing [redacted] at the scene.

[redacted] said that the suspect was on the ground on his stomach. The suspect's hands were straight out above his head. No one had the suspect's left hand. Morris and Perez were together on the suspect's left side. [redacted] saw both Morris and Perez strike the suspect's left side, two to three times and the deputy on the right side, ([redacted] could not recall who that deputy was) struck the suspect's right side, two to three times. [redacted] grabbed his left arm and tried to pull it behind the suspect and suspect stiffened up, and wouldn't let him pull his arms back. [redacted] was on the suspect's left side near his shoulder trying to pull his arm back. Either Perez or Morris was to his right side at the time. As [redacted] pulled on the suspect's left hand to get it behind his back, Morris and Perez struck the suspect again once or twice. The suspect then gave up his hand and was cuffed. [redacted] did not hit the suspect. [redacted] said that he did not recall seeing [redacted] at the scene.

> **Additional IAB Note:** According to Sergeant [redacted] notes that she took when the deputies eventually reported force, "Callahan-Right Arm-two punches to right rib area, Morris-Left arm-two punches, [redacted]-Jabbed twice, [redacted] handcuffed, Perez-Left rib area."

Sergeant [redacted] was interviewed as a Subject in this case, on January 18, 2005, at the Internal Affairs Bureau by Sergeant Elier Morejon and me. Also present was Marlyne Rinaldi from the Professional Peace Officer's Association. The following is a summary of her interview. **Refer to Subjects' Interviews Section for a complete transcription of her interview.**

Sergeant [redacted] related that she recalled the pursuit and the arrest of Suspect [redacted] on October 10, 2003.

> **IAB Note:** Sergeant [redacted] was originally interviewed as a Witness, on October 11, 2003, at Pico Rivera Station. A transcribed copy of that interview was provided to her prior to her interview as a Subject. The following is a summary of her interview as a Subject. The interview basically covers two areas: 1) Focus on the deputies' actions on the night of the incident, and 2) Focus on her actions on the night of the incident. **Refer to Subjects' Interviews section for a complete transcription of Sergeant [redacted] interview**

Regarding the actions of the deputies:

Sergeant [redacted] said that she did not recall seeing Deputy [redacted] near the suspect when the suspect was being walked out from between the two houses. She recalled seeing Deputy [redacted] at the scene, but not exactly where. She did not recall talking to him at the scene.

Sergeant [redacted] recalled talking to Deputy Callahan. They were alone at the time she spoke to him. Sergeant [redacted] said that there was no doubt in her mind that on the night of the incident, Deputy Callahan told her something to the effect, "The guy put his hands up on his head and went down to his knees. They grabbed him and they went down to the grass and they handcuffed him and brought him out." She reconfirmed that on the night of the incident, she checked the grass area and it was wet. Sergeant [redacted] reconfirmed that she also spoke to Deputies Morris and Perez on the night of incident and they essentially told her the same information about the arrest. Again, there was no doubt in her mind about what they told her.

Regarding Deputy [redacted] flashlight strikes, Sergeant [redacted] said that nothing was reported to her about flashlight strikes while at the scene.

Sergeant [redacted] related that during the pursuit debriefing she heard Lieutenant [redacted] essentially ask the deputies if they had anything to add or tell him. It was her understanding that he was giving them an opportunity to report force. The involved deputies did not report any force at this time.

Sergeant [redacted] and Lieutenant [redacted] left the briefing room and talked to the suspect. After talking to the suspect, she returned about fifteen minutes later and the involved deputies were still in the briefing room. She briefly spoke to them and they did not report any force at this point. She then left the briefing room. About thirty minutes later, she was contacted by either [redacted] or Callahan, she could not remember for sure, who now said that they wanted to "talk" to her. Deputies

Callahan, [redacted], Morris and Perez meet with Sergeant [redacted] in the briefing room and they now report their force. Sergeant [redacted] wrote notes in her notebook regarding the force used. Deputy [redacted] reported that he had jabbed the suspect with his flashlight. It was Sergeant [redacted] understanding that the flashlight jabs were because the suspect would not submit to handcuffing. **Refer to Exhibit A, Pages 55 & 56, for a copy of Sergeant [redacted] notes**

> **IAB Note:** Sergeant [redacted] related that at this point, while talking to the deputies, she did not know that the suspect was struck with the flashlight while handcuffed. It wasn't until later, when she went to interview the suspect for her force package, that suspect told her that he was handcuffed at the time he was struck with the flashlight.

After interviewing the suspect, Sergeant [redacted] talked to Lieutenant [redacted] and advised him that the suspect was now alleging that he was struck with a flashlight while handcuffed. [redacted] then directed her to talk to [redacted]. She re-contacted Deputy [redacted] and at that point, he admitted that he struck the suspect while the suspect was handcuffed. According to Sergeant [redacted], the reason Deputy [redacted] struck the suspect while handcuffed was essentially because the suspect "245'd" him during the pursuit.

> **IAB Note:** This was Sergeant [redacted] interpretation as for the reason Deputy [redacted] struck the suspect. **Refer to [redacted] transcribed Subject Interview, pages 13 and 14** In the follow-up interview with Deputy [redacted] he said that he did not say to Sergeant [redacted] that he struck the suspect because the suspect "245'd" him.

Sergeant [redacted] did not recall Deputy [redacted] ever telling her that the reason that he had failed to report his force was because he "panicked."

Regarding the force that was eventually reported to her, Sergeant [redacted] said that she did not recall any deputy telling her that the suspect turned around and took a combative stance. Additionally, she did not recall Deputy [redacted] report to her that the reason he struck the suspect with his flashlight was because the suspect tried to head-butt Deputy Morris. Sergeant [redacted] added that she did not recall any deputy at any time report a "head-butt" to her.

> **IAB Note:** Sergeant [redacted] notes indicate nothing about a "head-butt." She read her notes as follows: "Callahan on the right arm with two punches to the right rib area; Morris with the left arm with two punches; [redacted] jabbed twice; [redacted] handcuffed and Perez left rib area." Later in the interview, the "head-butt" issue was again discussed. After a brief discussion, Sergeant [redacted] agreed, that based on her

experience and past habits, that if a "head-butt" would have been reported to her, she would have wrote it in her notebook. Her conclusion from not having it noted was that the "head-butt" was not reported to her. Additionally, she noted, "Perez-left rib area," and during his interview, Perez said he was on the suspect's right side.

Regarding the actions of Sergeant [redacted]

Sergeant [redacted] reviewed the use of force policy and acknowledged that she was familiar with it.

Regarding speaking to all of the involved deputies at the scene, she acknowledged that she did not speak to everyone individually to get their information on the force used. She said that it was her conclusion, based on what Callahan told her and later by Morris and Perez, that force was not used during the arrest of the suspect.

Regarding the suspect, Sergeant [redacted] did not see the suspect's nose bleeding; however, she acknowledged that Sergeant Lawrence told her that the suspect's nose was bleeding. She did not ask the suspect if his nose was bleeding.

Sergeant [redacted] acknowledged that the suspect mentioned to her that he had been "hit," and she did not question him as to what happened or "how" he got hit. When asked why she didn't question him, Sergeant [redacted] said, "Because that wasn't the, you know, even if I was going to interview him, that really wasn't the time and place to interview him." When asked if, instead of an interview, why she just didn't ask him what happened, she said, "Well, I talked to him and when I asked him if he was okay and that stuff, but he was so, proper term for being, again, wound up, that they don't want to talk to you." When asked if the suspect refused to talk to her, Sergeant [redacted] said, "No. He just said, 'Yeah, I'm okay,' that kind of thing." Sergeant [redacted] also explained that she did not interpret the suspect saying that he was hit as the same as force being used on him.

Regarding the option of getting immediate medical attention for the suspect, Sergeant [redacted] said that she would "by all means" get the suspect medical attention if he had a serious injury. However, when she spoke with him, there was no indication that the suspect had any injury that required immediate medical attention.

When asked if she told Lieutenant [redacted] that the suspect said that he was hit, Sergeant [redacted] said that she could not remember if she did or not. When asked if she told Lieutenant [redacted] once she returned to the Station, she said that she intended to; however, before she could have a conversation with [redacted] he told her, "Let's go, we're doing the debriefing right now, because a lot of the guys are coming in and asking me about the way [I] managed the pursuit." Sergeant [redacted] said she had

also intended to immediately talk to the suspect when she returned to the station; however, she had to go straight to the debriefing.

Regarding the discussion that Lieutenant [redacted] had with the suspect where the suspect alleged that he was hit and kicked, Lieutenant [redacted] did not discuss with or mention to Sergeant [redacted] the possibility of an administrative or criminal investigation once he heard the allegations. Instead, he directed her to go back and a speak to the deputies.

According to Sergeant [redacted], Lieutenant [redacted] told her, "I want you to go back to those guys and tell them what, that you see some visible injuries and you want to know how those happened and if they have to report any force." She said that she then did as instructed. However, it was pointed out to her that when she went back to the briefing room she told the deputies something to the effect that the suspect was alleging force and injuries and that they "need to think about whatever you need to tell me and come back to me." When asked why she let them leave the briefing room without immediately reporting force at that time, Sergeant [redacted] said, "Because that's what they needed to do."

During additional questions to clarify why she allowed the deputies to leave the briefing room, Sergeant [redacted] said, "I just stepped out. I didn't mean anything by that one way or another. Just that, you know, you use force, admit to it, and I stepped out right to the Watch Sergeant's office, right where it was three steps away." After additional clarification questions, Sergeant [redacted] said that she wanted to give the deputies time to "collect themselves, individually." It was then pointed out to her that her actions appeared as if she was allowing the deputies an opportunity to leave and "get a story together." She responded, "Well, that wasn't my intent." When asked what her intent was, Sergeant [redacted] said, "For them to report the force that they used." She was then asked why she didn't have them report their force immediately at that point as opposed to later and she said, "There's no reason for later as opposed to right now. There wasn't, I didn't, I didn't think that to be anything other than just a report."

Sergeant [redacted] acknowledged that the deputies were gone for about thirty minutes. During that time she did not go out to the parking lot to talk to the deputies.

> **IAB Note:** During Deputy Callahan's interview, he said that Sergeant [redacted] came out to the parking lot on a few occasions to speak to the deputies.

Near the end of the interview, Sergeant [redacted] was asked if she would do anything differently in the same type of situation and she answered, "I'd go off my statement, my first statement I get and I'd back out. I was getting directed by my Lieutenant and he knew every step, because as soon as I had

any information, I went straight to him. I could have summed this up after, but since we're going there now, I mean all his years of experience, all his tenure on the Department, I was being directed by somebody who had much more experience than me with a much better background than me, experience in [redacted], experience as a [redacted], experience in [redacted]. I mean, I look up to him and I respect his judgement, his tenure and whatever he was directing me to do, didn't appear to me to be unreasonable, so I did what he asked me to do."

When asked if she had anything to add to her interview, Sergeant [redacted] said, "I had something else and I should have written it down when I thought of it. But hopefully this is the last time we have to meet like this, but to sum this up, everything that happened, it happened at the scene, told let's get back to the station. Get back to the station, we're told we're going to do this debriefing. We're told they're doing this. I'm directed to do this. Everything I did, I followed everything that I was directed to do by my supervisor. I feel through all my time on the Department, when you're out-ranked and you're directed, you do as directed. So I felt I was following protocol and I was following policy by everything in which I handled it and how I reported it. I think that is it."

In a few additional follow-up/clarifying questions, Sergeant [redacted] related that Lieutenant [redacted] knew that she left the deputies alone in the briefing room to discuss the force.

> **IAB Note:** During his interview, Lieutenant [redacted] said he did not know that Sergeant [redacted] left the deputies alone, nor did he know that they went to the parking lot to discuss the incident.

Regarding doing things differently than what was done in this incident, Sergeant [redacted] concluded by saying that "hindsight's twenty-twenty." She then said, "Fourteen months, like I said, you know, what happened that night and fourteen months later, you come up with all kinds of things you can always improve."

Refer to Subjects' Interviews Section for [redacted] complete interview transcript

On March 2, 2005, follow-up interviews were conducted with **Deputies Callahan, [redacted] Morris, Perez, and [redacted]** These follow-up interviews were conducted for clarification purposes. Also present during the interviews were Helen Schwab and Daryl Brenneman from Green and Shinee. On February 23, 2005, James Brady, from Green and Shinee picked up the transcripts of each deputy's prior interview so it could be provided to them.

> **IAB Note:** The following is a summary of each interview. **Refer to Subjects' Interviews Section for a complete transcription of their interviews**

Follow-up interview of Deputy Callahan

Prior to his interview, Deputy Callahan was shown a video clip of the news footage that captured a portion of Suspect [redacted] arrest. The video shows the suspect near the end of the vehicle pursuit when he crashed and him running from the stolen car. Deputies are seen chasing the suspect, who ultimately runs between two houses where he is taken into custody.

Deputy Callahan confirmed that he was the first unit to stop behind the suspect and that he was the second deputy seen chasing the suspect. Deputy Morris was the first deputy behind the suspect and the first deputy to reach the suspect when he ran between the two houses.

It was pointed out to Deputy Callahan that in the video, Callahan's hands are seen up on the fence area to his left side and Deputy Morris and the suspect have disappeared from view. Deputy Callahan agreed with our conclusion that the suspect and Deputy Morris were already on the ground when they disappeared from view.

Deputy Callahan was then asked to refer to his first interview where he said that he assisted Deputy Morris in taking the suspect down to the ground. He was then asked if reviewing the video tape refreshed his memory and if that was still what he recalled having happened.

> **IAB Note:** Ms. Schwab assisted investigators at this point by rephrasing the question. She said to Deputy Callahan, "It looked as if from the videotape, maybe the suspect was already on the ground or going to the ground with Morris before you even had your hands on him, whereas, when you previously talked about this, you had said that you had your hand, whether it was on the left or the right arm, regardless, in taking him to the ground or when he fell to the ground in some manner. So what the sergeant wants to know is, is there any change in your recollection based on what you viewed on the videotape?" After this rephrasing:

Deputy Callahan answered, "My recollection at that time was that I assisted him to the ground from a full standing upright position, which it appears that I did not." Deputy Callahan was asked what he thought occurred now that he reviewed the tape and he said, "I don't recall exactly. I don't recall if I--I know I assisted him to the ground. If he wasn't in the complete upright position, if he was on his way towards the ground and I turned and assisted laying him down on the ground at that point. That would probably be my best recollection." He added, "I remember moving out of the way as this suspect was going towards the ground. I assisted I believed in putting him on the ground. I... along with other deputies affected the arrest after a short struggle."

IAB Note: At this point in the interview there is a lengthy discussion about what the video depicts and if it was a complete video. The video tape shown was the complete news segment as shown on television. Also discussed was the positions of Deputies Callahan and Morris in relation to the suspect's actions. **Refer to Deputy Callahan's transcribed second interview pages 5 through 14**

Deputy Callahan was asked if he reported to Sergeant [redacted] that the suspect attempted to "head-butt" Deputy Morris. He answered, "No."

IAB Note: A little later in the interview, Deputy Callahan said he could not recall if he reported the "head-butt" to Sergeant [redacted]. During Sergeant [redacted] interview, she said that there was no mention of a "head-butt" to her.

Deputy Callahan was told that Sergeant [redacted] was certain of the account that was reported to her on the night of the incident: that he spoke with her in the field and told her something to the effect, "The guy put his hands up on his head, went down to his knees, they grabbed him there and they went to the grass and then they handcuffed him and brought him out." He was then asked, "Did you tell her that?" He answered, "No, sir." As in his first interview, Deputy Callahan said that he "didn't remember telling her much of anything."

When asked, Deputy Callahan said that prior to returning to the station, he did not have any discussion with the other deputies about the force that was used during this arrest, nor was he aware of any discussion by other deputies about the force that was used.

Deputy Callahan was then asked, "When you were still in the field, after the suspect was in custody, did you believe that all of the force that you used or witnessed was reasonable, appropriate, and/or necessary?"

IAB Note: Ms. Schwab asked for the question to be repeated. It was repeated a second time to Deputy Callahan.

Deputy Callahan answered, "At that time I was unsure." When asked why he was unsure, Deputy Callahan said, "I didn't--I wasn't thinking about whether or not the force was good or not, whether it was appropriate. I know that there was nothing that was excessive. I'm--I guess what I meant to say is I don't--I didn't think about it at the time. I have--I had a lot of other things that were going on and I was basically overwhelmed at that point."

IAB Note: For clarification purposes, the question was asked again. Deputy Callahan answered that he did feel the force he used and witnessed was reasonable, appropriate, and/or necessary.

Deputy Callahan acknowledged that in his first interview he said that his reason for not reporting his force was because he was "overwhelmed" and "made an error." Deputy Callahan was then asked to explain in more detail what he meant. He said, "This was my first pursuit initiated. It was a--by today's standards, it was a lengthy pursuit. There was a lot of factors that played into the pursuit, the crashes, the assault on my partner, the foot pursuit at the conclusion of it, the force used during the struggle, the--I was--I was overwhelmed by not knowing everything that I had to do, from gathering witness statements. I'm usually really good at directing people what to do, but this was a--this was a new situation to me and I--I was--I was just overwhelmed with--initially until it--it got sorted out, I realized that it wasn't really as much as I thought it was. But initially I was--I was overwhelmed. I didn't--I didn't know what I had to do. I didn't know, notifications, witness interviews. I didn't know everything that I--the part that I had to play. I was very unsure about how to write a pursuit--write a pursuit report. I had never written one of those either. So I had a lot of unanswered questions that in a sense made me overwhelmed, not to the point of--it was--it was a--it was more than what I was used to and I was--I was overwhelmed at the time. That's--that's about the way I can explain it."

It was then pointed out to Deputy Callahan, that based on his experience, he knew that he was required to report his force and he said, "Absolutely. Absolutely. I had lost--I--I had--I lost track of time, being overwhelmed, having everybody wanting answers from me that I didn't know answers to, yet, deputies wanting file numbers and who's doing this and who's doing what. I was being pulled in a--a million different directions and basically did not--I did not report my force while I was out there. It wasn't until I got back to the station and I was like, okay, well I have--I have to report it. I--I knew that."

Deputy Callahan was asked to explain in more detail, why he didn't report his force or the force he witnessed to Lieutenant [redacted] during the pursuit debriefing when Lieutenant [redacted] asked. Deputy Callahan said, "I don't--I don't--I don't have a reason. It--I--I didn't report it. It was--it was an error on my part. I just didn't."

IAB Note: At this point in the interview there was a lengthy discussion and objection by Ms. Schwab regarding the questions posed to Deputy Callahan. **Refer to pages 23 through 26 of Deputy Callahan's transcribed second interview**

Deputy Callahan was asked why it was necessary to go outside for a discussion prior to reporting their force to Sergeant [redacted] He said, "Because I was the handling deputy and I was writing the report. I had to find out what everybody did, if there was something that happened that I didn't see."

IAB Note: Deputy Callahan was asked a few other clarifying questions, and Ms. Schwab objected to some, saying they were unfair. **Refer to pages 26 through 30 of Deputy Callahan's transcribed second interview**

Follow-up interview of Deputy [redacted]

Regarding the attempted "head-butt" to Deputy Morris, Deputy [redacted] said that he reported it to Sergeant [redacted] When asked to clarify when he did tell her, Deputy [redacted] acknowledged that he did not report it in the field, during the debriefing, or when Sergeant [redacted] returned to the briefing room. Deputy [redacted] also acknowledged that he did not report the "head-butt" when he and the other involved deputies were reporting their force to Sergeant [redacted] as she wrote notes in her notebook. When asked at what point he did report the "head-butt" to Sergeant [redacted] Deputy [redacted] said, "You know, I don't exactly remember when I told her about the head-butt. But when we had discussed, initially reported the force and what we had done and why we had used it, that's when I reported I used my flashlight to jab the suspect because he attempted to head-butt Deputy Morris. I can't tell you exactly where and when that was. But when the whole sequence of events came down to reporting, I had explained that to her."

It was then pointed out to Deputy [redacted] that Sergeant [redacted] did not recall hearing anything about a "head-butt" and that she only recalled that the reason he jabbed the suspect with a flashlight was because he was "squirrelly" and would not stop resisting. Deputy [redacted] was asked if he recalled telling Sergeant [redacted] that and he said, " No, I don't recall that at all."

IAB Note: During her interview, Sergeant [redacted] said she did not hear about a "head-butt" during this incident.

When asked to clarify whether he didn't say this or he couldn't recall saying this, Deputy [redacted] said, "I don't recall telling her that. I recall when I did speak to her outside and I told her that I had hit him with my flashlight and then I realized he was handcuffed, and I told her why I hit him with my flashlight or I jabbed him, because of the fact that he head-butted Deputy Morris. We were outside. That was when I had--you know, we had contacted each other in the hallway. And I asked if I could talk to her outside regarding the incident."

IAB Note: During her interview, Sergeant [redacted] said that she did not go outside to the parking lot, nor was a "head-butt" reported to her.

When asked, Deputy [redacted] said that prior to returning to the station, he did not have any discussion with the other deputies about the force that was used during this arrest, nor was he aware of any discussion by other deputies about the force that was used.
Deputy [redacted] was then asked, "When you were still in the field, after the suspect was in custody, did you believe that all of the force that you used was reasonable, appropriate, and/or necessary?" He answered, "Yes." He said that he did not witness any force.

When specifically asked, Deputy [redacted] said that no deputy ever came up to them at any time on the night of the incident and stated something to the effect, "If you hit him with a flashlight you better say something 'cause this looks very bad, looks like we're trying to cover it up for you." He was then specifically asked if he recalled Deputy Callahan making that statement and Deputy [redacted] said, "No, I don't."

> **IAB Note:** At this point in the interview, it was pointed out to Deputy [redacted] that in his first interview, regarding the reason why he did not report his force was because he had a "momentary lapse of bad judgment." After a short discussion he corrected his statement to "momentary poor judgment."

Deputy [redacted] was then asked to explain what he meant by "momentary poor judgement" and he answered, "Well, in a situation when things are happening so fast I think at that time it was bad judgment on my part and, you know, like I said, it--it--it just was--at the time what had occurred. It was a long pursuit. It was somebody who was potentially dangerous. It was an individual, you know, who rammed my radio car. You know, I mean it just--as time goes things start calming down and you start--you're able to think a little more clearly. You know, at that moment it was a bad decision not to report the--the immediate use of force." It was pointed out to Deputy [redacted] that he said it was a "bad decision." He was asked if he made a decision not to report his force and he said, "No, I--it's not like I sat there and thought about it. It was just at that time, you know, as--as I'm, you know, playing things over in my head as to the sequence of events. And when it came down to it, it. Just why I didn't, I guess I--I panicked. Maybe I was a little scared. You know, it was--it was something that--it went on for a long time. It wasn't just, it happened and it was over. I mean this was something that gradually, from the pursuit to, you know, to the termination of the pursuit and in between there, the 245 on me."

Deputy [redacted] was asked to explain why he didn't report his force at the debriefing. He said, "You know, I just--he asked if there was anything else anybody wanted to say and I just didn't say anything." When asked why, [redacted] said, I honestly couldn't give you an answer. I just didn't say anything."

Deputy [redacted] was asked why it was necessary to go outside for a discussion prior to reporting their force to Sergeant [redacted]. He said, "Well, I don't think we went out to discuss what we needed to tell her. I mean we were out talking about how it was gonna be reported with Deputy Callahan, he was the reporting--the handling deputy and--and that's when I had told him, look, I know what I did and I need to report this." In a follow-up question to Deputy [redacted] he was asked why he didn't report his force to Sergeant [redacted] before going to the parking lot and he answered, "I was initially going out to get my paperwork so I can start writing. Why I did not tell her, I--I can't give you an answer."

> **IAB Note:** Deputy [redacted] was asked a few other clarifying questions, and Ms. Schwab objected to some. **Refer to pages 10 through 13 of Deputy [redacted] transcribed second interview**

When asked if he had anything to add to the interview, Deputy [redacted] said, "Well as I--as I stated in my last interview, you know, I know I made a mistake. It was wrong not to immediately report my force. Given the same situation again I would do what I'm supposed to do and report the force. I feel I was justified in using my force."

> **IAB Note:** At the conclusion of the interview, Ms. Schwab asked Deputy [redacted] if he had his flashlight that he used on the night of the incident. Deputy [redacted] brought out his flashlight and it was photographed and the photo is included in this case as **Exhibit E**. Deputy [redacted] also clarified that he used the "butt-end" of the light to jab the suspect.

Follow-up interview of Deputy Morris

Prior to his interview, Deputy Morris was shown a video clip of the news footage that captured a portion of Suspect [redacted] arrest. The video shows the suspect near the end of the vehicle pursuit when he crashed and him running from the stolen car. Deputies are seen chasing the suspect, who ultimately runs between two houses where he is taken into custody.

Deputy Morris confirmed that he was the first deputy behind the suspect as he ran in between the two houses. Deputy Morris also confirmed that the deputy behind him was Deputy Callahan.

Deputy Morris agreed that at one point in the video, he disappears from view very quickly. He did not recall actually seeing Deputy Callahan with his hands on the fence as depicted in the video. When asked his position at the time Callahan has his hands on the fence, Deputy Morris said, "To the best of my knowledge, at that time, the suspect and I were on the floor." Deputy Morris was

needed to be reported." He added that was the same reason as to why he also didn't report his force to Sergeant Lawrence.

Deputy Morris was asked to explain why he didn't report his force during the pursuit debriefing. He said, "At that immediate time, there was probably some hesitation because of, you know, maybe there was a little bit of fear involved that got beyond that."

Deputy Morris was asked why it was necessary to go outside for a discussion prior to reporting their force to Sergeant [redacted]

> **IAB Note:** At this point, Ms. Schwab interjected, " Well, that's a pretty--why did they need to go outside? I don't know that they needed to. They did go outside but – If you're sort of doing an interpretation on that that I don't think is there. They did go outside and no one said that they needed to go outside." The question was then rephrased as follows: "You went outside. Why--I guess the simple question would be--you could have reported the force that you used when Sergeant [redacted] came into the briefing room, but you chose not to. You guys--the fact is, you guys went outside. Why? Why not tell her then if the force is good, why not tell her then, but you guys went outside. And you're out there from anywhere from 25 to 35 minutes." Deputy Morris then said, "Correct." He was asked again, "Why go outside?" Morris answered, "Well. (Long pause.) Well, we went outside." The question was repeated, "Why?" and Ms. Schwab interjected, "If you had a reason at the time." Deputy Morris then said, "I can't think of any major reason as to why we went outside."
>
> **Additional IAB Note:** Deputy Morris was asked a few other clarifying questions, and Ms. Schwab objected to some. **Refer to pages 11 through 14 of Deputy Morris' transcribed second interview**

Follow-up interview of Deputy Perez

Prior to his interview, Deputy Perez was shown a video clip of the news footage that captured a portion of Suspect [redacted] arrest.

Deputy Perez confirmed that he was not seen in the video. He was behind Deputies Morris and Callahan approximately ten to twenty feet.

Deputy Perez was told that Sergeant [redacted] was certain of the account that was reported to her on the night of the incident: that she spoke with Morris in the field and Perez was in the vicinity, and

asked if he forced the suspect to the ground or did the suspect go down on his own. He answered, "As I recall, it was me taking his arm and taking him to the ground." Deputy Morris said that he did not recall if Deputy Callahan assisted him in taking the suspect to the ground. He added that it was possible.

Deputy Morris acknowledged that the suspect attempted to "head-butt" him. When asked if he reported the attempted "head-butt" to Sergeant [redacted] he said, "Not that I recall.

> **IAB Note:** Later during his interview, Deputy Morris said that he did report the attempted "head-butt," but when asked who he reported it to, he said he couldn't recall. Sergeant [redacted] said that there was no mention of a "head-butt" to her."

Deputy Morris was told that Sergeant [redacted] was certain of the account that was reported to her on the night of the incident; that he spoke with her in the field and told her something to the effect, "The guy put his hands up on his head, went down to his knees, they grabbed him there and they went to the grass and then they handcuffed him and brought him out." Deputy Morris was then asked, "Did you tell her that?" He answered, "No." He was then asked what he recalled telling her and he said, "I don't recall the actual conversation I had with her. I know I didn't report force, but I don't recall the actual conversation that I had."

When asked, Deputy Morris said that prior to returning to the station, he did not have any discussion with the other deputies about the force that was used during this arrest, nor was he aware of any discussion by other deputies about the force that was used.

Deputy Morris was then asked, "When you were still in the field, after the suspect was in custody, did you believe that all of the force that you used or witnessed was reasonable, appropriate, and/or necessary?" He answered, "Yes."

When specifically asked, Deputy Morris said that he did not recall that a deputy ever came up to them at any time on the night of the incident and stated something to the effect, "If you hit him with a flashlight you better say something 'cause this looks very bad, looks like we're trying to cover it up for you."

Deputy Morris acknowledged in his first interview, he said that he didn't report his force because he had poor judgment at the time. He was asked to explain what he meant in more detail. Deputy Morris said, "I don't know how much more in depth I can give, other than to say that, pretty much like I said before, I just... maybe it was the adrenaline and everything else that was going on at the time. That I just wasn't thinking clearly at that time. And I got my mind right, and reported what

Morris told her something to the effect, that the suspect had basically given up. When the suspect came around, he put his hands up on his head, he went down to his knees, and he was grabbed, went down to the grass and he was handcuffed. Deputy Perez was then asked if he overheard that account or gave that account to Sergeant [redacted] and he answered, "No."

When asked, Deputy Perez said that prior to returning to the station, he did not have any discussion with the other deputies about the force that was used during this arrest, nor was he aware of any discussion by other deputies about the force that was used.

Deputy Perez was then asked: "When you were still in the field, after the suspect was in custody, did you believe that all of the force that you used or witnessed was reasonable, appropriate, and/or necessary?" He answered, "Yes, it was reasonable."

Deputy Perez acknowledged in his first interview, he said that he didn't report his force because his adrenaline was pumping and he had a lapse in judgment at the time. He was asked to explain what he meant in more detail. Deputy Perez said, "I don't know how to define it. That's the best way I can define it. It was--it was just a--a lapse in judgment. I don't know how to better define that really."

Deputy Perez was asked to explain why he didn't report his force during the pursuit debriefing and he said, "Like I said, from the first interview. It was just a lapse in judgment, just--just an error in judgment on my part."

Deputy Perez was asked why he and the other involved deputies went outside to the parking lot prior to reporting their force. Deputy Perez answered, "I can assume that I had to find out who was even the handling deputy. I was gonna write a sup. I want to confirm who it was 'cause I--had to let them know I was gonna be turning in a sup, even to find out who to turn all the paperwork in to."

When specifically asked, Deputy Perez said that he did not recall that a deputy ever came up to them at any time on the night of the incident and stated something to the effect, "If you hit him with a flashlight you better say something 'cause this looks very bad, looks like we're trying to cover it up for you."

Deputy Perez was then asked the following question, "I think you're the only one that we asked this question on the first interview, but we're gonna ask it again, possibly in a little bit different way. But we understand that you can only speak for yourself, but we have five experienced deputy sheriffs who've used an amount of force that is reportable under policy. It's at the end of a pursuit and all five deputy sheriffs coincidentally and independently failed to report their force. What would be--

looking at this from the outside, what would be your explanation for this?" Deputy Perez answered, "Like I said, it's a lapse in judgment on my part and as far as my explanation, I can't explain other peoples' reason for anything. I can just explain my--my error. That's my explanation of it basically."

Regarding the attempted "head-butt" to Deputy Morris, Deputy Perez said that he did not remember hearing anything about a "head-butt."

At the conclusion of the interview, Deputy Perez said that he had nothing to add to the interview.

Follow-up interview of Deputy [redacted]

Deputy [redacted] said that prior to returning to the station, he did not have any discussion with the other deputies about the force that was used during this arrest, nor was he aware of any discussion by other deputies about the force that was used.

Deputy [redacted] was then asked, "When you were still in the field, after the suspect was in custody, did you believe that all of the force that you used or witnessed was reasonable, appropriate, and/or necessary?" He answered, "Yes."

Deputy [redacted] acknowledged that in his first interview, he failed to report his force and he had no excuse for not reporting. He was asked to elaborate and he explained, "My only excuse was I went back to the original car at the collision and as we were impounding the car, I don't know, someone came over the radio and said we're going to the station. So that's--we all just went to the station from there. I did not walk back to the sergeant." He added that he should have gone back and talked to Sergeant [redacted].

Deputy [redacted] was asked to explain why he didn't report his force during the pursuit debriefing and he said, "That--as I stated earlier, as the L. T. was going down the line asking everybody is there anything else they want us to tell us, and I was the last one there and they didn't ask me. Nobody else said anything and I, you know--I can't explain why I didn't say anything, but I just didn't. But I--at that moment we all--everyone went outside."

Deputy [redacted] was asked why he went out to the parking lot and he said, "Just basically to pretty much figure out who did what. I mean, obviously I went out there and said, I--I had his left arm. Who had the right arm type thing and that kind of stuff. And we all came back in." He acknowledged that he could have reported his force to Sergeant [redacted] without going outside, however, he chose not to.

IAB Note: Ms. Schwab interjected at this point, "You know, I--I have to tell you, sergeant, when you asked a question of a deputy earlier along those lines, you had said to us and I believe it was in [redacted] first interview, that the sergeant had--it says, [redacted] comes back, says she's still in the briefing room--says you're still in the briefing room. And then she tells you guys that you need to think about whatever you need to tell her, something to that effect, and then you guys leave. And the inference is--is that somehow the guys all decide they better get together and talk about this. And in fact from your question, it appears as if the sergeant was encouraging them to somehow meet and talk about what force, if any, was used. So when you had used the term earlier, like why did you need to go outside, it was at the suggestion obviously of supervision that they do that or at least wherever they went, that they talk about this." There was then a discussion regarding this question and Deputy [redacted] was asked the following clarifying question:

Deputy [redacted] was asked, " Did you feel you needed to go outside because that was what Sergeant [redacted] wanted you to do?" He answered, "I don't recall what Sergeant [redacted] really even said during the debriefing. I remember Lieutenant [redacted] you know, talking to us. But I don't know if they're still in the briefing room or if they had left the briefing room and we just decided to go outside and get a breath of air and, you know, just figure out who did what and come back in and tell them."

Deputy [redacted] was asked to explain in a little more detail what was discussed in the parking lot and he said, "Like I said, it was just pretty much on who did what. You know, I stated I had his left arm and whoever had his right arm and feet or, you know, who threw what punches. You know, I don't recall everybody's statements. You know, I just remember what I did. But it was pretty much--that's all it was. It was who did what and let's come back in and report it like we're supposed to."

Deputy [redacted] was then asked, "There was a use of force that was reportable. There's a pursuit. You're one of five deputies that are experienced deputy sheriffs, and you're one of the five that collectively, independently, coincidentally failed to report their force. There's different--there's different reasons as to why, you made an error, lapse in judgment, poor judgment. Do you have--I know you can only speak for yourself, but do you have any explanation as to how this could happen?" He answered, "No. It just happens. You know, I don't have an explanation of how it could happen, no. It's just one of those things that happened. I think everybody was caught up in the moment." He added that it has never happened to him before.

At the conclusion of the interview, Deputy [redacted] said that he had nothing to add.

Refer to Subjects' Interviews Section for complete transcripts of the follow-up interviews

On March 21, 2005, Lieutenant [redacted] was added as a Subject in this investigation.

On March 25, 2005, **Lieutenant [redacted]** was interviewed at the Internal Affairs Bureau by Sergeant Elier Morejon and I. Lieutenant [redacted] declined representation or an attorney to be present during his interview. His interview was recorded and transcribed.

> **IAB Note:** Lieutenant [redacted] was added as a Subject in this investigation with possible violation of Performance to Standards and Safeguarding Persons in Custody. The main issues included his performance actions as follows: when he failed to have the arrest "run" by him and failed to sign the Arrest Review/Probable Cause Declaration; when he directed Sergeant [redacted] to talk to the deputies after the suspect alleged significant force and the suspect had visible injuries; when he directed Sergeant [redacted] to talk to the deputies another time, after he learned that the suspect was handcuffed at the time that he was stuck with a flashlight; and when he chose not to speak to Deputy [redacted] without the presence of an attorney or representative, although Deputy [redacted] was willing to do so without representation. An additional concern was the timeliness in getting the suspect treated at the hospital. The suspect was arrested at about 2330 hours and records indicate that he was treated at the hospital nearly four hours later at about 0410 hours. **Refer to Subjects' Interviews section for the transcription of Lieutenant [redacted] interview.** The following is a summary of Lieutenant [redacted] interview covering the main issues:

Lieutenant [redacted] said that he recalled the pursuit and arrest of Suspect [redacted] on October 10, 2003. He was the Watch Commander at the time of the incident.

Regarding why he did not have the arrest "run" by him and sign the Arrest Review, Lieutenant [redacted] said, "At the time of the incident, no one came to report force to me. Even 'til today, nobody's reported that they used force to the Watch Commander, who I was. My mind-set, what I was thinking is, is that the suspect is in custody. Everybody saw him driving the stolen car. There's no question that he was the person they pursued from that stolen car. Therefore, I didn't think it mattered that they run the arrest by me at that time to tell me the circumstances of the arrest. I've listened to the pursuit tape. I've got people saying that he ran from the car and the Aero unit. I've got them apprehending the suspect. And I've got the Sergeant telling me that no force was used. So we're talking about an incident of an arrest report versus a use-of-force and the documentation required by the Department." He added that he had "no idea," who eventually signed the PCD. Lieutenant [redacted] acknowledged that it is mandatory that felony arrests get approved by the Watch Commander and that he normally ensures that it is done. Although he did not approve the arrest

during this incident, he acknowledged that it was his responsibility to ensure that it should have been done.

> **IAB Note:** Later during the interview, regarding this area, Lieutenant [redacted] was asked if once he saw the injuries on the suspect, if he considered at that point, having the deputies give him a statement as to the circumstances of the arrest. He answered, "No." When asked why not, he said, "Other than the disassociation, that I've got a potential administrative violation, I went back to the office and started making notifications at that point in time." When asked if he now thought that would have been a "good time" to at least speak to the handling deputy, [redacted] said, "Yeah. In retrospect, that's an option. I didn't think of it. I wasn't looking at that. But absolutely. In retrospect, that's a very good point. I could have done that."

Lieutenant [redacted] acknowledged that he had concerns and thought the involved deputies had possibly used force at the terminus of the pursuit. The "flag" went up, when they failed to make eye contact with him during the debriefing. Additional "flags" went up during his conversation with the suspect. At the point Lieutenant [redacted] sent Sergeant [redacted] to speak to the deputies, he believed that policy had possibly been violated. When asked why he sent Sergeant [redacted] to speak to the deputies the first time, he said, "My line of thinking was, at that point in time that I saw the marks, I wanted to start to disassociate myself from the deputies at that point in time. I have a, what I believe to be an unreported use of force by my deputies. And so I went back to my office and began – starting making notifications, that at least I believed I had that minimum policy violation, that I've got deputies not reporting force, I've got witnesses possibly not reporting force, and so I directed the field sergeant [redacted] to go ask them for the discrepancies."

It was pointed out to Lieutenant [redacted] that based on his statements, he already believed that that policy had been violated. He was then asked for a clearer explanation as to "why" he sent Sergeant [redacted] back to speak to the deputes when they had already had two opportunities to report force. Lieutenant [redacted] answered, "My line of thinking was, as I told you, I've started to disassociate myself and make notifications as to what I had at that point in time. I still believe that as a Watch Commander, you're responsible for managing and directing and knowing what's going on in the shift. So I sent her back to find out what the facts really were. The notifications are starting to be made. I'm starting to tell people above me at my level that we've got some policy violations. I don't know what extreme it is until we get in this dialogue where she's coming back and forth to me to telling me what's going on. So what I'm trying to do is, I'm trying to make sure the deputies that used force, they report it, we get it documented, even though they're going to fall on the sword for not reporting it. They violated policy right then and there."

When pointed out that his answer was still not clear, Lieutenant [redacted] said, "Let me answer it this way then. There is a clear way to do it, and that would be for me to just sit there and say, 'Hey, this is no longer in my ballpark. I immediately call the Internal Affairs Bureau, through the chain of command, and let them handle it and disassociate myself with this investigation totally and give it to somebody else.' I have a responsibility, I think, to the people that I manage and I direct. And to be fair to them, given them opportunity – they're already going to fall by the sword. They've already violated the policy. So I'm giving them another chance to come forward and tell the truth."

Lieutenant [redacted] was then asked if it was simply his intention to give the deputies a third opportunity to report force and he answered, "If you want to say a third opportunity, yes. I wanted to give them an opportunity to tell the truth and get it on paper."

Lieutenant [redacted] said that he did not know that the deputies were still in the briefing room when he directed Sergeant [redacted] to go talk to them. When asked, he said that it was never his intention for Sergeant [redacted] to direct them to go outside and discuss the incident, nor was it his intention for the deputies to congregate outside and discuss the incident prior to reporting their force to Sergeant [redacted].

Regarding medical treatment for the suspect, according to Lieutenant [redacted], a short time after he first spoke to the suspect, he made arrangements for the suspect to be transported to the hospital for treatment. He vaguely recalled that it was about 0035 hours when he first spoke to the suspect and he believed that he directed Sergeant [redacted] to make the arrangements. He did not know why the suspect wasn't treated until about 0410 hours. When asked if he recalled checking on the progress of the suspect getting to the hospital, [redacted] said, "No, because I assumed that when I made the direction to do it, that he would go as quickly as possible."

Regarding the actual reporting of force on the night of the incident, Lieutenant [redacted] said that none of the involved deputies ever reported force to him. He added, "No one reported force to me that evening. And as I sit here today, none of those deputies involved have reported force to me. And I might add, it's not in any of their reports or their supplemental reports that it was either reported to either the Sergeant--either the field sergeant, the watch sergeant, or me."

Lieutenant [redacted] said that no one ever reported to him an "attempted head-butt" to Deputy Morris.

> **IAB Note:** As noted previously in this narrative, some of the involved deputies related that they reported their force and the "attempted head-butt" to Lieutenant [redacted].

properly document his actions for what he did for the reasons why he did it. I wasn't going in there to – for her to ask him questions to violate that area. I just wanted to make sure that he was aware that he had to document that he used his impact weapon, a flashlight, and the reasons why he used that and to properly document it, not to go in there and ask him questions that may violate either his administrative or criminal rights. It was more of a sense to go back there to make sure that he was going to document it." Lieutenant [redacted] added that regarding his purpose to convey to [redacted] the need to document, "That's what my goal was. And obviously, I didn't articulate that very well."

In regards to this area, Lieutenant [redacted] summed up by saying, "Because the deputy at that point in time, I know who he is. I didn't know what had happened at the beginning. It was unreported. And then when she [redacted] goes back there to confront them about the marks, they start telling her about the use of force, but there's nothing that says anybody used a flashlight. Then she comes back and says, 'It was Deputy [redacted] that used the flashlight; he wants to talk to you.'Now I've got a named suspect of potential criminal violation for what he did. Now I'll settle this, you know, in a bundle here. After this entire thing was over with, there was that question raised, 'Why didn't you do this at this certain point in time?' And it's simply because I didn't think about it. What I was thinking about was – was protecting the best interest of the Department as well as the employee. And what I learned later is, is that what I could have done is when the deputy came to talk to me and said, 'Time out, if you wish to talk to me, you're going to do it freely and without a representative because you have certain rights provided to you. One of those are administrative rights to have a representative, or if I have to Mirandize you for a potential criminal act,' I didn't think of that until after this thing was all over."

Lieutenant [redacted] was asked if it was ever his or any supervisor's motive to cover up the force used during this incident and he said, "Absolutely not. And to reiterate that once again, had I not taken the action that I took with the Sergeant when I saw the original red flag – we've got several flags here. The original red flag, when I saw the demeanor– the deputies changed during the debriefing, had I not done my responsibility and go talk to – there was no reason for me to go talk to him. Policy says, you know, if you go clearly by the policy, if you use force, you report it to an immediate supervisor. Significant force, the sergeant tells the Watch Commander. The Watch Commander goes talks and interviews the inmate. Watch Commander gets medical attention for the inmate. So had I just listened to what the deputy said originally – you know, what came about from this thing is the use of force is a – was a side issue. I was concerned about the pursuit, the foot pursuit, and deputies telling me that no force was used, until the first red flag went up and they didn't make eye contact with me. And I realized I got a problem here. And I went back and I talked to the inmate. And I looked at him physically. I only saw the two marks. From a guy that was beaten with flashlights and batons and kicked by a deputy's boot, you would think you would see bruising, scuff marks on the shirt, something to indicate that force was used. I saw nothing other than the two, the

potential of possible third mark on his chest being jabbed with what I believed to be a flashlight. And I told the Sergeant, 'We've got a discrepancy here. Go find out why. And I'm going to my office to start making the phone calls.' Because when I saw the marks, I believed there was a policy violation and I was making the calls. And I think that night, I made six phone calls to the Captain as well as to Lieutenant Greg Johnson of IAB, of what we had."

Lieutenant [redacted] was asked if, on the night of the incident, he ever learned the reason that the suspect was struck with a flashlight while handcuffed and he stated, "Not until I read the complaint report, possibly a day or two after. And two days ago, when I was a Subject, I went to look for my notes to recount what had happened and I read the complaint report. 'Did I ever find out the reasons why? You going to ask me about the complaint report?' It's not true. I don't believe that. This is what I believe. The deputy was involved in a collision where his life was nearly taken and he's mad and he's angry. And at the end of that pursuit, I believe the guy initially went to ground. Deputies probably jumped on him. Is that force? Yeah, that's significant force, but they should have reported it. And while they had him handcuffed, they were bringing him out, and now the deputy arrives and he's pissed and he uses the butt end of that flashlight. That's what I believe. That's what I believe today. And that's what I'll believe tomorrow."

At the conclusion of his interview, Lieutenant [redacted] was asked if he had anything to add that he felt was important to the investigation. He answered, "No. I just – I'd just like to go over the sequence again as far as – again, my mind-set, when I learned that the deputy used the flashlight and he wanted to talk to me, I learned of it, and moments later, the deputy came in to me and, again, I believe I had a – minimally, I've got an administrative violation. And when I'm told that a flashlight is used on a handcuffed prisoner and I don't see any other marks other than what I saw of him, the three jabs, I believe that there might have been a criminal act. Having worked [redacted], where you Mirandize suspects when you're going to ask them questions, and I've got the minimum– minimally, the administrative violations, I chose to protect the deputy's rights, the Department's rights from screwing this thing up, and telling him to seek advice from counsel. I gave him thirty minutes to do that. And my notes say that I – we talked at 0345 hours, and at exactly 4:15, he comes back to me and he explains to me that he's tried to call his counsel, that there was this interruption or the desk had hung up on his counsel, but it was right at the time that I told him to be back. So at 4:15, he hadn't quite made contact with his rep. When he comes back to tell me that, because I told him to be back in 30 minutes, to the minute, he's back to me and he explains this to me. I then tell him, 'You got a couple extra minutes; it's not going to kill us now,' basically. 'Go contact your attorney; go call him 'cause he's trying to make efforts to you.' And now he comes back and says he wants to exercise his right and not talk. Okay. What I could have done in retrospect, that I wasn't thinking throughout the entire time of this incident, was I could have sat him down based on my training at [redacted] and [redacted] and explained to him, 'If you wish to talk to me, you're doing so freely without a

representative being present.' I didn't think of that. That wasn't an option I had. It's been brought to my attention. I accept that as an option. And I still don't, to this point in day, think I violated anything of policy. So with that I'll end it."

> **IAB Note:** Lieutenant [redacted] provided a copy of his notes from the night of the incident and are included as part of this case as **Exhibit F**.

Refer to Subjects' Interviews Section for the transcription of Lieutenant [redacted] interview.

Case submitted April 6, 2005.